

HOUSE JOURNAL

SEVENTY-FIFTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-SECOND DAY — TUESDAY, MAY 13, 1997

The house met at 12:20 p.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 398).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Grusendorf; Junell; Oliveira; Serna.

LEAVES OF ABSENCE GRANTED

On motion of Representative Carter and by unanimous consent, all members who were granted leaves of absence on the previous legislative day were granted leaves for this legislative day.

RULES SUSPENDED

Representative Carter moved to suspend all necessary rules in order to take up and consider at this time, on third reading and final passage, the bills on the local, consent, and resolutions calendar which were considered on the previous legislative day.

The motion prevailed without objection.

MOTION FOR ONE RECORD VOTE

On motion of Representative Carter and by unanimous consent, the house agreed to use the first record vote taken for all those bills on the local, consent,

and resolutions calendar that require a record vote on third reading and final passage, with the understanding that a member may record an individual vote on any bill with the journal clerk.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

LOCAL, CONSENT, AND RESOLUTIONS CALENDAR

SB 1007 was withdrawn.

LOCAL CALENDAR CONSENT CALENDAR THIRD READING

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by a voice vote (members registering votes are shown following bill number):

HB 1043

SB 637

HB 1653

HB 2233

HB 2733

HB 2768

HB 2856

HB 2993 (Christian, Clark, Corte, Finnell, Heflin, Horn, Isett, Keffer, Kubiak, Solomons, and Williams recorded voting no)

HB 3092

HB 3225

HB 3375

SB 94 (Corte, Finnell, Heflin, Horn, and Kubiak recorded voting no)

SB 170

SB 199

SB 201

SB 231

SB 303

SB 323

SB 331

SB 417

SB 459 (Clark, Corte, Finnell, Heflin, Horn, and Kubiak recorded voting no)

SB 478

SB 514

SB 557

SB 569

SB 570

SB 580

SB 591

SB 623

SB 625

SB 657

SB 771

SB 781

SB 786

SB 798

SB 820

SB 843

SB 939

SB 991

SB 1014

SB 1016

SB 1127

SB 1211

SB 1268

SB 1269

SB 1277 (Finnell recorded voting no)

SB 1352

SB 1403 (Corte, Heflin, and Kubiak recorded voting no)

SB 1519

SB 1600

SB 1601

SB 1722

SB 1736

SB 1756

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by (Record 399): 143 Yeas, 0 Nays, 2 Present, not voting (members registering votes and the results of the vote are shown following bill number).

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Grusendorf; Junell; Oliveira; Serna.

HB 3597 (143-0-2)

HB 3603 (143-0-2)

SB 67 (143-0-2)

SB 264 (143-0-2)

SB 396 (143-0-2)

SB 403 (143-0-2)

SB 600 (143-0-2)

SB 693 (143-0-2)

SB 698 (143-0-2)

SB 735 (143-0-2)

SB 1108 (143-0-2)

SB 1179 (143-0-2)

SB 1233 (143-0-2)

SB 1295 (143-0-2)

SB 1437 (143-0-2) (the bill was later returned by the governor, the vote was reconsidered on Wednesday, May 28, and **SB 1437** was amended and passed by Record 591.)

SB 1621 (143-0-2)

SB 1656 (143-0-2)

SB 1828 (143-0-2)

SB 1865 (Finnell and Horn - no) (141-2-2)

SB 1903 (143-0-2)

SB 1924 (143-0-2)

RULES SUSPENDED

Representative Sadler moved to suspend the 5-day posting rule to allow the Committee on Public Education to consider **SB 462, SB 471, SB 520, SB 780, SB 1627, SB 1825, and SB 1893.**

The motion prevailed without objection.

Representative Yarbrough moved to suspend the 5-day posting rule to allow the Committee on Economic Development to consider **SB 216.**

The motion prevailed without objection.

Representative Gray moved to suspend the 5-day posting rule to allow the Committee on Civil Practices to consider **SB 1786.**

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Juvenile Justice and Family Issues, on recess today, Desk 20, to consider **SB 11** and **SB 1936.**

Natural Resources, on recess today, Desk 9.

County Affairs, on recess today, Desk 4, to consider pending business.

RECESS

Representative Nixon moved that the house recess until 2 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:36 p.m., recessed until 2 p.m. today.

AFTERNOON SESSION

The house met at 2 p.m. and was called to order by the speaker.

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES RESOLUTIONS REFERRED TO COMMITTEES

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

SB 841 and SJR 43 - RECOMMITTED

Representative Sadler moved to recommit **SB 841** and **SJR 43** to the Select Committee on Revenue and Public Education Funding.

The motion prevailed without objection.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Sadler requested permission for the conference committee on **HB 4** and **HJR 4** to meet while the house is in session for the remainder of the session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Conference Committee on **HB 4** and **HJR 4**, 3 p.m. today, appropriations committee room.

**PROVIDING FOR A CONGRATULATORY AND
MEMORIAL CALENDAR**

Representative Edwards moved to set a congratulatory and memorial calendar for 10 a.m. Friday, May 16.

The motion prevailed without objection.

**PROVIDING FOR A LOCAL, CONSENT, AND
RESOLUTIONS CALENDAR**

Representative Edwards moved to set a local, consent, and resolutions calendar for 10 a.m. Friday, May 16.

The motion prevailed without objection.

SB 1558 - RECOMMITTED

Representative Bosse moved to recommit **SB 1558** to the Committee on Land and Resource Management.

The motion prevailed without objection.

**HB 311 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Place called up with senate amendments for consideration at this time,

HB 311, A bill to be entitled An Act relating to the prosecution of certain offenses involving firearms, illegal knives, clubs, or prohibited weapons.

Representative Place moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 311**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 311**: Place, chair, Dunnam, Farrar, Hinojosa, and Keel.

**HB 9 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Stiles called up with senate amendments for consideration at this time,

HB 9, A bill to be entitled An Act relating to the prepaid higher education tuition program.

Representative Stiles moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 9**.

The motion prevailed without objection.

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 9**: Stiles, chair, Corte, Flores, Hernandez, and Telford.

CSHB 772 - COMMITTEE ON CALENDARS RULE ADOPTED

Pursuant to House Rule 3, Section 4(2), and House Rule 6, Section 16(f), Representative Stiles moved to adopt the following rule, proposed by the Committee on Calendars, governing floor consideration of **CSHB 772**:

During second reading and third reading consideration of the bill an amendment is not in order unless the amendment is prepared using the Redistricting Application Computer System (REDAPPL) maintained by the Texas Legislative Council.

The motion prevailed without objection.

CSHB 2254 - COMMITTEE ON CALENDARS RULES ADOPTED

Pursuant to House Rule 3, Section 4(2), and House Rule 6, Section 16(f), Representative Stiles moved to adopt the following rule, proposed by the Committee on Calendars, governing floor consideration of **CSHB 2254**:

During second reading and third reading consideration of the bill an amendment is not in order if:

(1) the amendment is not prepared using the Redistricting Application Computer System (REDAPPL) maintained by the Texas Legislative Council; or

(2) the amendment proposes to change a district included in **HB 6**, Acts of the 75th Legislature, Regular Session, 1997.

The motion prevailed without objection.

**HB 710 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Averitt called up with senate amendments for consideration at this time,

HB 710, A bill to be entitled An Act relating to the implementation of federal reforms and the Texas Health Insurance Risk Pool.

On motion of Representative Averitt, the house concurred in the senate amendments to **HB 710** by (Record 400): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Goodman; Goolsby; Gray; Greenberg; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; Merritt; Moffat; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Grusendorf; Junell; Oliveira; Serna.

Absent — Davila; Glaze; McReynolds; Moreno.

Senate Committee Substitute

CSHB 710, A bill to be entitled An Act relating to the implementation of federal reforms and the Texas Health Insurance Risk Pool.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

PART 1. HEALTH INSURANCE RISK POOL

SECTION 1.01. Section 2, Article 3.77, Insurance Code, is amended to read as follows:

Sec. 2. DEFINITIONS. In this article:

(1) "Benefits plan" means coverage to be offered by the pool to eligible persons under Section 11 of this article.

(2) "Board" means the board of directors of the pool.

(3) "Commissioner" means the Commissioner of Insurance.

(4) "Department" means the Texas Department of Insurance.

(5) "Dependent" means a resident spouse or unmarried child under the age of 18 years, a child who is a full-time student under the age of 23 years and who is financially dependent upon the parent, a child who is over 18 years of age and for whom a person may be obligated to pay child support, or a child of any age who is disabled and dependent upon the parent.

(6) "Family member" means a parent, grandparent, brother, sister, or child of a dependent residing with the insured.

(7) "Health insurance" means individual or group health insurance and includes any hospital and medical expense incurred policy, a fraternal benefit society, a stipulated premium company, an approved nonprofit health corporation, health maintenance organization subscriber contract, coverage by a group hospital service plan, a multiple employer welfare arrangement subject to Subchapter I of this chapter, or any other health care plan or arrangement that pays for or furnishes medical or health care services whether by insurance or otherwise. The term does not include short-term, accident, dental-only, vision-only, fixed indemnity, credit insurance or other limited benefit insurance, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(8) "Health maintenance organization" means a health maintenance organization that has a certificate of authority to operate in this state under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code).

(9) "Hospital" means a licensed public or private institution as defined by Chapter 241, Health and Safety Code, and any hospital owned or operated by the federal or state government.

(10) "Insured" means a person who is a resident of this state and a citizen of the United States and who is eligible to receive benefits from the pool. The term "insured" may include dependents and family members.

(11) "Insurer" means any entity that provides health insurance in this state, including stop-loss or excess loss insurance. For the purposes of this Act, insurer includes but is not limited to an insurance company; a health maintenance organization operating under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code); an approved nonprofit health corporation; a fraternal benefit society; a stipulated premium insurance company; a group hospital service corporation subject to Chapter 20 of this code; a multiple employer welfare arrangement subject to Article 3.95-1, et seq. of this code; a surplus lines carrier; an insurer providing stop-loss or excess loss insurance to physicians, health care providers, hospitals, or to any benefit arrangements to the extent permitted by Section 3, Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1002); and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

(12) "Insurance arrangement" means a plan, program, contract, or other arrangement through which health care services are provided by an employer to its officers, employees, or other personnel but does not include health care services covered through an insurer.

(13) "Medicare" means coverage provided by Part A and Part B, Title XVII, Social Security Act (42 U.S.C. Section 1395 et seq.).

(14) "Physician" means a person licensed to practice medicine in this state under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

(15) "Plan of operation" means the plan of operation of the pool and includes the articles, bylaws, and operating rules of the pool that are adopted by the board under Section 5 of this article.

(16) "Pool" means the Texas Health Insurance Risk Pool.

(17) "Resident" means:

(a) an individual who has been legally domiciled in Texas for a minimum of 30 days for persons eligible for enrollment in the Pool under Section 10(a)(1), (2), (3), or (5) of this article; or

(b) an individual who is legally domiciled in Texas for persons eligible for enrollment in the Pool under Section 10(a)(4) of this article.

[(1) "Pool" means the Texas Health Insurance Risk Pool.

[(2) "Board" means the board of directors of the pool.

[(3) "Insurance board" means the State Board of Insurance.

[(4) "Commissioner" means the commissioner of insurance.

[(5) "Insured" means a person who is a resident of this state and who is eligible to receive benefits from an insurer or insurance arrangement.

[(6) "Insurer" means an insurance company authorized to transact a health insurance business in this state, including a group hospital service corporation subject to Chapter 20 of this code and a health maintenance organization operating under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code).

[(7) "Insurance arrangement" means a plan, program, contract, or other arrangement through which health care services are provided by an employer to its officers, employees, or other personnel but does not include health care services covered through an insurer.

[(8) "Health insurance" means individual or group health insurance coverage and includes a medical expense incurred or hospital insurance coverage, or coverage by a group hospital service plan or health maintenance organization. "Health insurance" does not include short-term insurance, accident-only insurance, coverage that is supplemental to liability insurance, or workers' compensation insurance.

[(9) "Medicare" means coverage provided by Part A and Part B, Title XVII, Social Security Act (42 U.S.C. Section 1395 et seq.).

[(10) "Physician" means a person licensed to practice medicine in this state under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

[(11) "Hospital" means a licensed public or private institution as defined by the Texas Hospital Licensing Law Chapter 241, Health and Safety Code and any hospital owned or operated by the federal or state government.

[(12) "Health maintenance organization" means a health maintenance organization that has a certificate of authority to operate in this state under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code).

[(13) "Plan of operation" means the plan of operation of the pool and includes the articles, bylaws, and operating rules of the pool that are adopted by the board under Section 5 of this article.

[(14) "Benefits plan" means coverage to be offered by the pool to eligible persons under Section 11 of this article.

~~[(15) "Net premiums" means premiums charged by the pool less administrative expense allowances.]~~

SECTION 1.02. Section 4, Article 3.77, Insurance Code, is amended by amending Subsections (b)-(e) and (g) and by adding Subsection (h) to read as follows:

(b) The commissioner ~~[insurance board]~~ shall appoint members of the board for staggered six-year terms as provided by this section.

(c) The board shall be ~~[is]~~ composed of:

(1) at least two persons ~~[one person]~~ affiliated with an insurer ~~[insurance company]~~ admitted and authorized to write health insurance in this state, but no more than four such persons;

(2) at least two persons who are insureds or parents of insureds or who are reasonably expected to qualify for coverage by the pool; ~~[one person affiliated with a group hospital service corporation operating under Chapter 20 of this code;]~~

(3) the remaining members of the board may be selected from individuals such as a ~~[one]~~ physician licensed to practice in this state by the Texas State Board of Medical Examiners, a ~~[(4) one]~~ hospital administrator, an ~~[(5) one]~~ advanced nurse practitioner, or ~~[(6) four]~~ representatives of the general public who are not employed by or affiliated with an insurance company or plan, group hospital service corporation, or health maintenance organization or licensed as or employed by or affiliated with a physician, hospital, or other health care provider. A ~~[(d) The limitation on who may be a]~~ representative of the general public does ~~[not]~~ include a person whose only affiliation with an insurance company or plan, group hospital service corporation, or health maintenance organization is as an insured or person who has coverage through a plan provided by the corporation or organization.

(d) For purposes of this section, an individual required to register with the secretary of state under Chapter 305, Government Code, because of the individual's activities with respect to health insurance-related matters is a person affiliated with an insurer.

(e) If a vacancy occurs on the board, the commissioner ~~[insurance board]~~ shall fill the vacancy for the unexpired term with a person who has the appropriate qualifications to fill that position on the board.

(g) The commissioner ~~[insurance board]~~ shall designate one of its appointees to the board to serve as chairman. The chairman serves in that capacity at the pleasure of the commissioner ~~[insurance board]~~.

(h) A member of the board of directors is not liable for an action or omission performed in good faith in the performance of powers and duties under this article, and cause of action does not arise against a member for the action or omission.

SECTION 1.03. Section 5, Article 3.77, Insurance Code, is amended to read as follows:

Sec. 5. Plan of Operation. (a) The pool's initial board shall submit to the commissioner ~~[insurance board]~~ a plan of operation for the pool that will assure the fair, reasonable, and equitable administration of the pool.

(b) In addition to the other requirements of this article, the plan of operation must include procedures for:

(1) operation of the pool;
(2) selecting an administrator as provided under Section 7 of this article;

(3) creating a fund, under management of the board, for administrative expenses;

(4) handling, [and] accounting, and auditing of [for] money and other assets of the pool; [and]

(5) [(2)] developing and implementing a program to publicize [provide public information regarding] the existence of the pool, the eligibility requirements for coverage under the pool, [and] enrollment procedures, and to foster public awareness of the plan;

(6) creation of a grievance committee to review complaints presented by applicants for coverage from the pool and insureds who receive coverage from the pool; and

(7) other matters as may be necessary and proper for the execution of the board's powers, duties, and obligations under this article.

(c) After notice and hearing, the commissioner [~~insurance board~~] shall approve the plan of operation if it is determined [~~determines~~] that the plan is suitable to assure the fair, reasonable, and equitable administration of the pool.

(d) The plan of operation takes effect on the date it is approved by commissioner [~~insurance board~~] order.

(e) If the initial board fails to submit a suitable plan of operation before the 180th day following the appointment of the initial board, the commissioner [~~insurance board~~], after notice and hearing, may adopt all necessary and reasonable rules to provide a plan for the pool. The rules adopted under this subsection shall continue in effect until the initial board submits, and the commissioner [~~insurance board~~] approves, a plan of operation under this section.

(f) The board shall amend the plan of operation as necessary to carry out this article. Amendments to the plan of operation must be approved by the commissioner [~~insurance board~~] before they become part of the plan.

SECTION 1.04. Section 6, Article 3.77, Insurance Code, is amended to read as follows:

Sec. 6. Authority of the Pool. (a) The pool may exercise any of the authority that an insurance company authorized to write health insurance in this state may exercise under the law of this state[~~, except the pool may not provide group insurance coverage~~].

(b) As part of its authority, the pool may:

(1) provide [~~individual~~] health benefits coverage to persons who are eligible for that coverage under this article;

(2) enter into contracts that are necessary to carry out this article including, with the approval of the commissioner, entering into contracts with similar pools in other states for the joint performance of common administrative functions or with other organizations for the performance of administrative functions;

(3) sue or be sued, including taking any legal actions necessary or proper to recover or collect assessments due the pool;

(4) institute any legal action necessary to avoid payment of improper claims against the pool or the coverage provided by or through the pool to

recover any amounts erroneously or improperly paid by the pool, to recover any amounts paid by the pool as a mistake of fact or law, and to recover other amounts due the pool;

(5) establish appropriate rates, rate schedules, rate adjustments, expense allowances, agents' referral fees, and claim reserve formulas and perform any actuarial functions appropriate to the operation of the pool;

(6) adopt policy forms, endorsements, and riders and applications for coverage;

(7) issue insurance policies subject to this article and the plan of operation;

(8) appoint appropriate legal, actuarial, and other committees that are necessary to provide technical assistance in operating the pool and performing any of the functions of the pool; ~~and~~

(9) employ ~~and set the compensation of~~ any persons necessary to assist the pool in carrying out its responsibilities and functions;

(10) contract for stop-loss insurance for risks incurred by the pool;

(11) recover or collect assessments imposed under Section 13 of this article;

(12) borrow money as necessary to implement the purposes of the pool;

(13) issue additional types of health insurance policies to provide optional coverages which comply with applicable provisions of state and federal law, including Medicare supplemental health insurance;

(14) provide for and employ cost containment measures and requirements including, but not limited to, preadmission screening, second surgical opinion, concurrent utilization review subject to Article 21.58A of this code, and individual case management for the purpose of making the benefit plans more cost effective;

(15) design, utilize, contract, or otherwise arrange for the delivery of cost-effective health care services, including establishing or contracting with preferred provider organizations and health maintenance organizations; and

(16) provide for reinsurance on either a facultative or treaty basis or both.

(c) The board shall promulgate a list of medical or health conditions for which a person shall be eligible for pool coverage without applying for health insurance. The list shall be effective on the first day of the operation of the pool and may be amended from time to time as may be appropriate.

(d) Not later than June 1 of each year, the board shall make an annual report to the governor, the lieutenant governor, the speaker of the house of representatives, and the commissioner. The report shall summarize the activities of the pool in the preceding calendar year, including information regarding net written and earned premiums, plan enrollment, administration expenses, and paid and incurred losses.

SECTION 1.05. Section 7, Article 3.77, Insurance Code, is amended by amending the heading and Subsections (a), (b), and (e) to read as follows:

Sec. 7. ADMINISTRATOR [~~ADMINISTERING INSURER~~]. (a) After completing a competitive bidding process as provided by the plan of operation, the board may [~~shall~~] select one or more insurers or a third party administrator certified by the department [~~State Board of Insurance~~] to administer the pool.

(b) The board shall establish criteria for evaluating the bids submitted. The criteria must include:

(1) an insurer's or third party administrator's proven ability to handle individual accident and health insurance;

(2) the efficiency of an insurer's or third party administrator's claims paying procedures;

(3) an estimate of total charges for administering the pool; ~~and~~

(4) an insurer's or third party administrator's ability to administer the pool in a cost-efficient manner; and

(5) the financial condition and stability of the insurer or third party administrator.

(e) The administering insurer or third party administrator shall perform such functions relating to the pool as may be assigned to it, including:

(1) perform eligibility and administrative claims payment functions for the pool;

(2) establish a billing procedure for collection of premiums from persons insured by the pool;

(3) perform functions necessary to assure timely payment of benefits to persons covered under the pool, including:

(A) providing information relating to the proper manner of submitting a claim for benefits to the pool and distributing claim forms; and

(B) evaluating the eligibility of each claim for payment by the pool;

(4) submit regular reports to the board relating to the operation of the pool; and

(5) determine after the close of each calendar year the net written and earned premiums, expense of administration, and paid and incurred losses of the pool for that calendar year and report this information to the board and the commissioner [insurance board] on forms prescribed by the commissioner.

SECTION 1.06. Section 8, Article 3.77, Insurance Code, is amended to read as follows:

Sec. 8. ~~RULES [RULEMAKING AUTHORITY].~~ The commissioner may by rule establish additional powers and duties of the board and may adopt other rules as are necessary and proper to implement this article. The commissioner by rule shall provide the procedures, criteria, and forms necessary to implement, collect, and deposit assessments made and collected under Section 13. [The board may adopt rules it determines necessary to carry out this article and other laws of this state under which it is authorized to operate.]

SECTION 1.07. Sections 9(b), (d), and (e), Article 3.77, Insurance Code, are amended to read as follows:

(b) Rates and rate schedules may be adjusted for appropriate risk factors including age and variation in claim costs, and the board may consider ~~[shall take into consideration]~~ appropriate risk factors in accordance with established actuarial and underwriting practices.

(d) The pool shall determine the standard risk rate by considering the premium rates charged by other insurers offering health insurance coverage to individuals. The standard risk rate shall be established using reasonable actuarial techniques, and shall reflect anticipated experience and expenses for

such coverage. Initial pool rates may not be less than 125 percent and may not exceed 150 percent of rates established as applicable for individual standard rates. Subsequent rates [calculating the average individual standard rate charged by the five largest insurers offering coverage in this state comparable to the pool coverage. If five insurers do not offer comparable coverage, the standard risk rate shall be established using reasonable current actuarial techniques and shall reflect anticipated experience and expenses for that type of coverage. Rates] shall be established to provide fully for the expected costs of claims including recovery of prior losses, expenses of operation, investment income of claim reserves, and any other cost factors subject to the limitations described in this subsection. In no event shall pool [Pool] rates [may not be less than 150 percent, and may not] exceed 200 percent[;] of rates applicable to individual standard risks.

(e) All rates and rate schedules shall be submitted to the commissioner [insurance board] for approval, and the commissioner [insurance board] must approve the rates and rate schedules of the pool before they are used by the pool. The commissioner [insurance board] in evaluating the rates and rate schedules of the pool shall consider the factors provided by this section. [The insurance board by rule may adopt necessary procedures, criteria, and forms for the submission and approval of the pool's rates and rate schedules.]

SECTION 1.08. Section 10, Article 3.77, Insurance Code, is amended to read as follows:

Sec. 10. ELIGIBILITY FOR COVERAGE. (a) Any individual person who is and continues to be a resident of Texas and a citizen of the United States shall be eligible for coverage from the pool if evidence is provided of:

(1) a notice of rejection or refusal to issue substantially similar insurance for health reasons by two insurers. A rejection or refusal by an insurer offering only stop-loss, excess loss, or reinsurance coverage with respect to the applicant shall not be sufficient evidence under this subsection;

(2) an offer to issue insurance only with conditional riders;

(3) a refusal by an insurer to issue insurance except at a rate exceeding the pool rate;

(4) the individual has maintained health insurance coverage for the previous 18 months with no gap in coverage greater than 63 days of which the most recent coverage was through an employer sponsored plan; or

(5) diagnosis of the individual with one of the medical or health conditions listed by the board under Section 6(c) of this article and for which a person shall be eligible for pool coverage without applying for health insurance coverage. [Except as provided by Subsection (b) of this section, a person who is a resident of this state and who is diagnosed as having a condition designated as uninsurable by the board or who provides proof acceptable to the board from his insurer that he has been determined to be a substandard risk for whom the insurer's premium would exceed the premium charged by the pool is entitled to coverage from the pool.]

(b) Each dependent of a person who is eligible for coverage from the pool shall also be eligible for coverage from the pool. In the instance of a child who is the primary insured, resident family members shall also be eligible for coverage.

(c) A person may maintain pool coverage for the period of time the person is satisfying a preexisting waiting period under another health insurance policy or insurance arrangement intended to replace the pool policy.

(d) A person is not eligible for coverage from the pool if the person:

(1) has in effect on the date pool coverage takes effect health insurance coverage from an insurer or insurance arrangement;

(2) is eligible for other health care benefits at the time application is made to the pool, including COBRA continuation, except:

(A) Coverage, including COBRA continuation, other continuation or conversion coverage, maintained for the period of time the person is satisfying any pre-existing condition waiting period under a pool policy; or

(B) Employer group coverage conditioned by the limitations described by Subsections (a)(1) and (2) of this Section; or

(C) Individual coverage conditioned by the limitations described by Subsections (a)(1)-(3) of this Section;

(3) has terminated coverage in the pool within 12 months of the date that application is made to the pool, unless the person demonstrates a good faith reason for the termination;

(4) [has had benefits paid by the pool on his behalf in the amount of \$500,000;

[{5}] is confined in a county jail or imprisoned in a state prison;

(5) the person's premiums are paid for or reimbursed under any government sponsored program or by any government agency or health care provider, except as an otherwise qualifying full-time employee, or dependent thereof, of a government agency or health care provider; or

(6) the person has not had prior coverage with the pool terminated for nonpayment of premiums or fraud [is eligible for benefits under Medicare, Chapter 32, Human Resources Code, or Chapter 35, Health and Safety Code].

(e) Pool coverage shall cease:

(1) on the date a person is no longer a resident of this state, except for a child who is a student under the age of 23 years and who is financially dependent upon the parent, a child for whom a person may be obligated to pay child support, or a child of any age who is disabled and dependent upon the parent;

(2) on the date a person requests coverage to end;

(3) upon the death of the covered person;

(4) on the date state law requires cancellation of the policy;

(5) at the option of the pool, 30 days after the pool sends to the person any inquiry concerning the person's eligibility, including an inquiry concerning the person's residence, to which the person does not reply;

(6) on the 31st day after the day on which a premium payment for pool coverage becomes due if the payment is not made before that date; or

(7) at such time as the person ceases to meet the eligibility requirements of this section.

(f) [({e})] A person who ceases to meet the eligibility requirements of this section, may have his coverage terminated at the end of the policy period.

[({d}) A person whose health insurance coverage is involuntarily terminated

~~for any reason other than nonpayment of premium and who is not eligible for conversion under the terminated coverage is eligible to apply for coverage under the plan. If application is made for the coverage not later than the 60th day after the involuntary termination and if premiums are paid for the entire coverage period, the effective date of coverage is the termination date of the previous coverage.]~~

SECTION 1.09. Section 11, Article 3.77, Insurance Code, is amended to read as follows:

Sec. 11. Minimum Pool Benefits. (a) The pool shall offer pool coverage consistent with major medical expense coverage to each eligible person who is not eligible for Medicare. The board, with the approval of the commissioner, shall establish:

- (1) the coverages to be provided by the pool;
- (2) the applicable schedules of benefits; and
- (3) any exclusions to coverage and other limitations.

~~[to each person who is eligible under Section 10 of this article. The pool coverage shall be for covered expenses as follows:~~

- ~~[(1) hospital services;~~
- ~~[(2) professional services for the diagnosis or treatment of injuries, illnesses, or conditions, other than mental or dental, which are rendered by a physician, or by other licensed professionals at his direction;~~
- ~~[(3) drugs requiring a physician's prescription;~~
- ~~[(4) services of a licensed skilled nursing facility for not more than 120 days during a policy year;~~
- ~~[(5) services of a home health agency up to a maximum of 270 services per year;~~
- ~~[(6) use of radium or other radioactive materials;~~
- ~~[(7) oxygen;~~
- ~~[(8) anesthetics;~~
- ~~[(9) prostheses other than dental;~~
- ~~[(10) rental of durable medical equipment, other than eyeglasses and hearing aids, for which there is no personal use in the absence of the conditions for which it is prescribed;~~
- ~~[(11) diagnostic X-rays and laboratory tests;~~
- ~~[(12) oral surgery for excision of partially or completely unerupted, impacted teeth or the gums and tissues of the mouth when not performed in connection with the extraction or repair of teeth;~~
- ~~[(13) services of a licensed physical therapist;~~
- ~~[(14) transportation provided by a licensed ambulance service to the nearest facility qualified to treat the condition; and~~
- ~~[(15) services for diagnosis and treatment of mental and nervous disorders, provided that the insured is required to make a 50 percent copayment, and that the payment of the pool does not exceed \$4,000 for outpatient psychiatric treatment.]~~

(b) The benefits provisions of the pool's health benefits coverages must include the following:

- (1) all required or applicable definitions;
- (2) a list of any exclusions or limitations to coverage;

(3) a description of covered services required under the pool; and
(4) the deductibles, coinsurance options, and copayment options that are required or permitted under the pool.

(c) [Covered expenses under Subsection (a) of this section do not include:

[(1) any charge for treatment for cosmetic purposes other than surgery for the repair or treatment of an injury or a congenital bodily defect to restore normal bodily functions;

[(2) care which is primarily for custodial or domiciliary purposes;

[(3) any charge for confinement in a private room to the extent it is in excess of the institution's charge for its most common semiprivate room, unless a private room is prescribed as medically necessary by a physician;

[(4) that part of any charge for services rendered or articles prescribed by a physician, dentist, or other health care personnel that exceeds the prevailing charge in the locality or for any charge not medically necessary;

[(5) any charge for services or articles that provision of which is not within the scope of authorized practice of the institution or individual providing the services or articles;

[(6) any expense incurred prior to the effective date of coverage by the pool for the person on whose behalf the expense is incurred;

[(7) dental care except as provided in Subsection (a)(12) of this section;

[(8) eyeglasses and hearing aids;

[(9) illness or injury due to acts of war;

[(10) services of blood donors and any fee for failure to replace the first three pints of blood provided to an eligible person each policy year; and

[(11) personal supplies or services provided by a hospital or nursing home or any other nonmedical or nonprescribed supply or service.

[(c) Under this section, "covered expenses" includes only those expenses for the prevailing charge in the locality for the items listed in Subsection (a) of this section if prescribed by a physician and determined by the pool to be medically necessary.

[(d) In authorizing pool coverage, the board must consider levels of health insurance provided in the state and medical economic factors that are considered appropriate and, subject to the limitations provided by this section, shall adopt benefit levels, deductibles, coinsurance factors, exclusions, and limitations determined to be generally reflective of and commensurate with health insurance provided through a representative number of large employers in the state.

[(e) Pool coverage under this section shall provide both a low deductible of not less than \$250 per person and \$500 per family a year and appropriate higher deductibles to be selected by the pool applicant. The board shall purchase stop-loss coverage for the pool in amounts determined by the board but not more than \$2,000 per person or \$4,000 per family covered by the pool.] The board may adjust deductibles, the amounts of stop-loss coverage, and the time periods governing preexisting conditions under Section 12 [Subsection (f)] of this article [section] to preserve the financial integrity of the pool. If the board makes such an adjustment it shall report in writing that adjustment together with its reasons for the adjustment to the commissioner [insurance board and Legislative Budget Board]. The report must be submitted not later than the 30th day after the date the adjustment is made.

~~[(f) Pool coverage must exclude charges or expenses incurred during the first six months following the effective date of coverage with regard to any condition that during the six-month period preceding the effective date of coverage:~~

~~[(1) had manifested itself in a manner that would cause an ordinarily prudent person to seek diagnosis, care, or treatment; or~~

~~[(2) for which medical advice, care, or treatment was recommended or received.~~

~~[(g) Preexisting condition exclusions shall be waived to the extent to which similar exclusions, if any, have been satisfied under any previous health insurance coverage, health insurance pool, or self-insured health or welfare benefits plan that was involuntarily terminated, if application for pool coverage is made not later than the 31st day after involuntary termination. In that case, coverage in the pool is effective from the date on which the previous coverage was terminated.]~~

~~(d) [(h)]~~ Benefits otherwise payable under pool coverage shall be reduced by amounts paid or payable through any other health insurance, or insurance arrangement, and by all hospital and medical expense benefits paid or payable under any workers' compensation coverage, automobile insurance whether provided on the basis of fault or no-fault, and by any hospital or medical benefits paid or payable under or provided pursuant to any state or federal law or program.

~~(e) [(i)]~~ The ~~[insurer or the]~~ pool has a cause of action against an eligible person for the recovery of the amount of benefits paid that are not for covered expenses. Benefits due from the pool may be reduced or refused as an offset against any amount recoverable under this subsection.

SECTION 1.10. Sections 12 and 13, Article 3.77, Insurance Code, are amended to read as follows:

Sec. 12. PREEXISTING CONDITIONS. (a) Except as provided by this section and Section 11(c) of this article, pool coverage shall exclude charges or expenses incurred during the first 12 months following the effective date of coverage with regard to any condition for which medical advice, care, or treatment was recommended or received during the six-month period preceding the effective date of coverage.

(b) A preexisting condition provision shall not apply to an individual who was continuously covered for an aggregate period of 12 months by health insurance that was in effect up to a date not more than 63 days before the effective date of coverage under the pool, excluding any waiting period, provided that the application for pool coverage is made no later than 63 days following the termination of coverage.

(c) In determining whether a preexisting condition provision applies to an individual covered by the pool, the pool shall credit the time the individual was previously covered under health insurance if the previous coverage was in effect at any time during the 12 months preceding the effective date of coverage under the pool. Any waiting period that applied before that coverage became effective also shall be credited against the preexisting condition provision period.

Sec. 13. Assessments. (a) The board may assess insurers and make advance interim assessments as reasonable and necessary for the plan's

organizational and interim operating expenses. Any interim assessment shall be credited as offsets against any regular assessments due following the close of the fiscal year. ~~[If during any state fiscal year, the pool is unable to pay its claims and meet its other financial obligations due to a shortage of available funds, the board shall make an estimate of the amount that will be necessary to fund the shortage and shall notify the insurance board of this shortage and the estimated amount of money necessary to fund the shortage.]~~

(b) ~~If assessments exceed the pool's actual losses and administrative expenses, the excess shall be held in an interest-bearing account and used by the board to offset future losses or to reduce future assessments. As used in this section, future losses includes reserves for incurred but not reported claims. [On receiving notice under this section, the insurance board shall direct the commissioner of insurance to impose an assessment on each insurer authorized to write health insurance in this state.]~~

(c) ~~After the end of each fiscal year, the board shall determine and report to the commissioner the net loss, if any, of the pool for the previous calendar year, including administrative expenses and incurred losses for the year, taking into account investment income and other appropriate gains and losses. Any net loss for the year shall be recouped by assessments on insurers. Each insurer's assessment shall be determined annually by the board based on annual statements and other reports required by the board and filed with the board. [The total amount of assessments to be collected by the commissioner shall be in an amount that is sufficient to fund the pool's shortage.]~~

(d) ~~The assessment imposed against each insurer shall be in an amount that is equal to the ratio of the gross premiums collected by the insurer for health insurance in this state during the preceding calendar year, except for Medicare supplement premiums subject to Article 3.74 and small group health insurance premiums subject to Articles 26.01 through 26.76, to the gross premiums collected by all insurers for health insurance, except for Medicare supplement premiums subject to Article 3.74 and small group health insurance premiums subject to Articles 26.01 through 26.76, in this state during the preceding calendar year.~~

(e) ~~An insurer may petition the commissioner for an abatement or deferment of all or part of an assessment imposed by the board. The commissioner may abate or defer, in whole or in part, such assessment if the commissioner determines that the payment of the assessment would endanger the ability of the participating insurer to fulfill its contractual obligations. If an assessment against an insurer is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred shall be assessed against the other insurers in a manner consistent with the basis for assessments set forth in this subsection. The insurer receiving such abatement or deferment shall remain liable to the pool for the deficiency. The total of all assessments on an insurer may not exceed one-half of one percent of the insurer's collected premiums for health insurance in this state. This subsection expires January 1, 2000. [The insurance board by rule shall provide the procedures, criteria, and forms necessary to implement, collect, and deposit assessments made and collected under this section.]~~

~~(f) Each insurer that pays an assessment under this section is entitled to~~

reimbursement by the state in an amount equal to the amount of the assessment paid under this section. The state shall reimburse an insurer not earlier than September 1 but not later than September 15 of the first year of the first state biennium that begins after the date on which the assessment is paid. The comptroller of public accounts by rule shall establish a procedure under which claims for reimbursement under this section may be submitted and paid.

~~[Sec. 13. MANAGED CARE, ETC. The board as part of the pool's program may adopt rules providing for quality of care, management of costs and benefits, and managed care.]~~

SECTION 1.11. Article 3.77, Insurance Code, is amended by adding Sections 14 and 15 to read as follows:

Sec. 14. COMPLAINT PROCEDURES. An applicant or participant in coverage from the pool is entitled to have complaints against the pool reviewed by a grievance committee appointed by the board. The grievance committee shall report to the board after completion of the review of each complaint. The board shall retain all written complaints regarding the pool at least until the third anniversary of the date the pool received the complaint.

Sec. 15. AUDIT. (a) The state auditor shall conduct annually a special audit of the pool under Chapter 321, Government Code. The state auditor's report shall include a financial audit and an economy and efficiency audit.

(b) The state auditor shall report the cost of each audit conducted under this article to the board and the comptroller, and the board shall remit that amount to the comptroller for deposit to the general revenue fund.

PART 2. GROUP COVERAGES

SECTION 2.01. Section 1(d)(3), Article 3.51-6, Insurance Code, is amended to read as follows:

(3) Any insurer or group hospital service corporation subject to Chapter 20, Insurance Code, who issues policies which provide hospital, surgical, or major medical expense insurance or any combination of these coverages on an expense incurred basis, but not a policy which provides benefits for specified disease or for accident only, shall provide a ~~[conversion or]~~ group continuation privilege as required by this subsection. Any employee, member, or dependent whose insurance under the group policy has been terminated for any reason except involuntary termination for cause, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy and under any group policy providing similar benefits which it replaces for at least three consecutive months immediately prior to termination shall be entitled to such privilege as outlined in Paragraph (A) ~~[(B), or (C)]~~ below. Involuntary termination for cause does not include termination for any health-related cause.

(A)(i) Policies subject to this section shall provide continuation of group coverage for employees or members and their eligible dependents subject to the eligibility provisions. [An insurer shall first offer to each employee, member, or dependent a conversion policy without evidence of insurability if written application for and payment of the first premium is made not later than the 31st day after the date of the termination. The converted policy shall provide similar coverage and benefits as provided under the group policy or plan. The lifetime maximum benefits shall be computed from the

initial date of the employee's, member's, or dependent's coverage with the group. An insurer shall offer and an employee, member, or dependent may elect lesser coverage and benefits. An employee, member, or dependent shall not be entitled to have a converted policy or plan issued if termination of the insurance occurred because: (aa) such person failed to pay any required premium; or (bb) any discontinued group coverage was replaced by similar group coverage within 31 days.

~~[(ii) An insurer shall not be required to issue a converted policy covering any person if: (aa) such person is or could be covered by Medicare; (bb) such person is covered for similar benefits by another hospital, surgical, medical, or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program; (cc) such person is eligible for similar benefits whether or not covered therefor under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis; or (dd) similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements of any state or federal law. The board shall issue rules and regulations to establish minimum standards for benefits under policies issued pursuant to this subsection.~~

~~[(B)(i) Policies subject to Paragraph (A) above shall provide at the option of the employee, member, or dependent in lieu of the requirements of Paragraph (A) continuation of group coverage for employees or members and their eligible dependents subject to the eligibility provisions of Paragraph (A).]~~

(ii) Continuation of group coverage must be requested in writing within 31 days following the later of: (aa) the date the group coverage would otherwise terminate; or (bb) the date the employee, member, or dependent is given notice in a format prescribed by the commissioner of the right of continuation by either the employer or the group policyholder.

(iii) ~~[In no event may the employee or member elect continuation more than 31 days after the date of such termination. (iv)]~~ An employee, ~~[or] member, or dependent~~ electing continuation must pay to the group policyholder or employer, on a monthly basis in advance, the amount of contribution required by the policyholder or employer, plus two percent of the group rate for the insurance being continued under the group policy on the due date of each payment.

~~(iv) [(v)]~~ The employee's, ~~[or] member's, or dependent's~~ written election of continuation, together with the first contribution required to establish contributions on a monthly basis in advance, must be given to the policyholder or employer within the later of: (aa) 31 days of the date coverage would otherwise terminate, or (bb) the date the employee is given notice of the right of continuation by either the employer or the group policyholder.

~~(v) [(vi)]~~ Continuation may not terminate until the earliest of: (aa) six months after the date the election is made; (bb) the date on which failure to make timely payments would terminate coverage; (cc) the date on which the group coverage terminates in its entirety; (dd) the date on which the covered person is or could be covered under Medicare; or one of

the conditions specified in items (aa) through (dd) of Subparagraph (ii), Paragraph (A) above is met by the covered individual; (ee) the date on which the covered person is covered for similar benefits by another hospital, surgical, medical, or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or any other plan or program; (ff) the date the covered person is eligible for similar benefits whether or not covered therefor under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis; or (gg) similar benefits are provided or available to such person, pursuant to or in accordance with the requirements of any state or federal law.

(vi) Not less than 30 days before the end of the six months after the date the employee, member, or dependent elects continuation of the policy, the insurer shall notify the employee, member, or dependent that he/she may be eligible for coverage under the Texas Health Insurance Risk Pool, as provided under Article 3.77 of this code and the insurer shall provide the address for applying to such pool to the employee, member, or dependent.

(B)(i) An insurer may offer to each employee, member, or dependent a conversion policy. Such converted policy shall be issued without evidence of insurability if written application for and payment of the first premium is made not later than the 31st day after the date of termination. The converted policy shall meet the minimum standards for benefits for conversion policies.

(ii) Conversion coverage for any insured person may not terminate until the earliest of: (aa) the date on which failure to make timely payments would terminate coverage; or (bb) one of the conditions specified in items (dd) through (gg) of Subparagraph (v), Paragraph (3)(A) above. The commissioner shall issue rules and regulations to establish minimum standards for benefits under policies issued pursuant to this subsection.

(iii) ~~(C)~~ The insurer may elect to provide the conversion coverage on an individual or group basis.

The premium for the converted policy issued under Paragraph (B) ~~(A)~~ of this subdivision shall be determined in accordance with the insurer's table of premium rates for coverage that was provided under the group policy or plan. The premium may be based on the age and geographic location of each person to be covered and the type of converted policy. The premium for the same coverage and benefits under a converted policy may not exceed 200 percent of the premium determined in accordance with this paragraph. The premium must be based on the type of converted policy and the coverage provided by the policy.

PART 3. INDIVIDUAL COVERAGES

SECTION 3.01. Subsection (H), Section 1, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-1, Vernon's Texas Insurance Code), is amended by adding Subdivision (4) to read as follows:

(4)(a) A preexisting condition provision in an individual health insurance policy shall not apply to an individual who was continuously covered for an aggregate period of 18 months by creditable coverage that was in effect up to a date not more than 63 days before the effective date of the individual coverage, excluding any waiting period, and whose most recent creditable coverage was under a group health plan, governmental plan, or church plan.

(b) For purposes of this section, creditable coverage means coverage under any of the following: coverage under a self-funded or self-insured employee welfare benefit plan that provides health benefits and is established in accordance with the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001, et seq.); coverage under any group or individual health benefit plan provided by a health insurance carrier or health maintenance organization; Part A or Part B of Title XVIII of the Social Security Act; Title XIX of the Social Security Act, other than coverage consisting solely of benefits under Section 1928; Chapter 55 of Title 10, United States Code; a medical care program of the Indian Health Service or of a tribal organization; a state health benefits risk pool; a health plan offered under Chapter 89 of Title 5, United States Code; a public health plan as defined by federal regulations; or a health benefit plan under Section 5(e) of the Peace Corps Act (22 U.S.C. Section 2504(e)).

(c) In determining whether a preexisting condition provision applies to an individual, the individual insurance carrier shall credit the time the individual was previously covered under creditable coverage if the previous coverage was in effect at any time during the 18 months preceding the effective date of the individual coverage.

SECTION 3.02. Subchapter G, Chapter 3, Insurance Code, is amended by adding Article 3.70-1A to read as follows:

Art. 3.70-1A. GUARANTEED RENEWABILITY OF CERTAIN INDIVIDUAL HEALTH INSURANCE POLICIES. (a) Except as otherwise provided in this article, an individual health insurance policy providing benefits for medical care under a hospital, medical, or surgical policy shall be renewed or continued in force at the option of the individual.

(b) An individual health insurance policy providing benefits for medical care under a hospital, medical, or surgical policy may be nonrenewed or discontinued based only on one or more of the following reasons:

(1) failure to pay premiums or contributions in accordance with the terms of the policy;

(2) fraud or intentional misrepresentation;

(3) the insurance company is ceasing to offer coverage in the individual market in accordance with rules established by the commissioner;

(4) an individual no longer resides, lives, or works in an area in which the insurer is authorized to provide coverage, but only if such coverage is terminated under this paragraph uniformly without regard to any health-status related factor of covered individuals; or

(5) in accordance with applicable federal law and regulations.

(c) The commissioner shall adopt rules necessary to implement this article and to meet the minimum requirements of federal law and regulations.

PART 4. COVERAGE THROUGH HEALTH MAINTENANCE ORGANIZATIONS

SECTION 4.01. Section 9, Texas Health Maintenance Organization Act (Article 20A.09, Vernon's Texas Insurance Code), is amended by adding Subsections (k) and (l) to read as follows:

(k) Continuation of Coverage and Conversion.

(A) A health maintenance organization shall provide a group continuation privilege as required by this subsection. Any enrollee whose

coverage under the group contract has been terminated for any reason except involuntary termination for cause, and who has been continuously insured under the group contract and under any group contract providing similar services and benefits which it replaces for at least three consecutive months immediately prior to termination shall be entitled to such privilege as outlined below. Involuntary termination for cause does not include termination for any health-related cause. Health maintenance organization contracts subject to this section shall provide continuation of group coverage for enrollees subject to the eligibility provisions below:

(1) Continuation of group coverage must be requested in writing within 31 days following the later of: (aa) the date the group coverage would otherwise terminate; or (bb) the date the enrollee is given notice of the right of continuation by either the employer or the group contractholder.

(2) An enrollee electing continuation must pay to the group contractholder or employer on a monthly basis, in advance, the amount of contribution required by the contractholder or employer, plus two percent of the group rate for the coverage being continued under the group contract, on the due date of each payment.

(3) The enrollee's written election of continuation, together with the first contribution required to establish contributions on a monthly basis, in advance, must be given to the contractholder or employer within 31 days following the later of: (aa) the date the group coverage would otherwise terminate; or (bb) the date the enrollee is given notice of the right of continuation by either the employer or the group contractholder.

(4) Continuation may not terminate until the earliest of: (aa) six months after the date the election is made; (bb) the date on which failure to make timely payments would terminate coverage; (cc) the date on which the covered person is covered for similar services and benefits by another hospital, surgical, medical, or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or any other plan or program; or (dd) the date on which the group coverage terminates in its entirety.

(5) Not less than 30 days before the end of the six months after the date the enrollee elects continuation of the contract, the health maintenance organization shall notify the enrollee that he/she may be eligible for coverage under the Texas Health Insurance Risk Pool, as provided under Article 3.77 of this code, and the health maintenance organization shall provide the address for applying to such pool to the enrollee.

(B) A health maintenance organization may offer to each enrollee a conversion contract. Such conversion contract shall be issued without evidence of insurability if written application for and payment of the first premium is made not later than the 31st day after the date of termination. The conversion contract shall meet the minimum standards for services and benefits for conversion contracts. The commissioner shall issue rules and regulations to establish minimum standards for services and benefits under contracts issued pursuant to this subsection.

(C) The premium for a conversion contract issued under this Act shall be determined in accordance with the health maintenance organization's

premium rates for coverage that were provided under the group contract or plan. The premium may be based on geographic location of each person to be covered and the type of conversion contract and coverage provided. The premium for the same coverage under a conversion contract may not exceed 200 percent of the premium determined in accordance with this paragraph. The premium must be based on the type of conversion contract and the coverage provided by contract.

(I) Individual Health Care Plan. A health maintenance organization may provide an individual health care plan as required by this subsection.

(A) For purposes of this subsection, an "individual health care plan" means:

(1) a health care plan providing health care services for individuals and their dependents;

(2) a health care plan in which an enrollee pays the premium and is not being covered under the contract pursuant to continuation of services and benefits provisions applicable under federal or state law; and

(3) a plan in which the evidence of coverage meets the requirements of Section 2(a) of this Act.

(B) A health maintenance organization may limit its enrollees to those who live, reside, or work within the service area for such network plan.

(C) Renewability of Coverage. An individual health care plan or a conversion contract providing health care services shall be renewable with respect to an enrollee at the option of the enrollee, and may be nonrenewed based only on one or more of the following reasons:

(1) failure to pay premiums or contributions in accordance with the terms of the plan or the issuer has not received timely premium payments;

(2) fraud or intentional misrepresentation;

(3) the health maintenance organization is ceasing to offer coverage in the individual market in accordance with rules established by the commissioner;

(4) enrollee no longer resides, lives, or works in the area in which the health maintenance organization is authorized to provide coverage, but only if such coverage is terminated under this paragraph uniformly without regard to any health-status related factor of covered enrollees; or

(5) in accordance with applicable federal law and regulations.

(D) The commissioner may adopt rules necessary to implement this article and to meet the minimum requirements of federal law and regulations.

PART 5. TRANSITION; EFFECTIVE DATE; EMERGENCY

SECTION 5.01. Except as provided in Section 5.02, this Act applies only to an insurance policy or evidence of coverage that is delivered, issued for delivery, or renewed on or after July 1, 1997. A policy or evidence of coverage that is delivered, issued for delivery, or renewed before July 1, 1997, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5.02. Coverages available under the Texas Health Insurance Risk Pool as provided in Part 1 of this Act must be made available not later than January 1, 1998. The provisions of this Act as provided under Part 2, Section

2.01, apply only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 1998. A policy that is delivered, issued for delivery, or renewed before January 1, 1998, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5.03. This Act takes effect July 1, 1997.

SECTION 5.04. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

HB 1212 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS

Representative Averitt called up with senate amendments for consideration at this time,

HB 1212, A bill to be entitled An Act relating to health insurance portability and availability and the implementation of certain federal reforms relating to health insurance portability and availability.

Representative Averitt moved that the house concur in the senate amendments to **HB 1212**.

Representative Van de Putte offered a substitute motion that the house not concur and that a conference committee be requested to adjust the differences between the two houses on the bill.

(Speaker pro tempore in the chair)

The substitute motion that the house not concur and that a conference committee be requested prevailed by (Record 401): 98 Yeas, 38 Nays, 3 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Bailey; Berlanga; Bosse; Burnam; Chavez; Clark; Coleman; Cook; Counts; Craddick; Cuellar; Culbertson; Danburg; Davila; Davis; Dukes; Dunnam; Dutton; Edwards; Eiland; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Gray; Greenberg; Gutierrez; Haggerty; Hamric; Hawley; Hernandez; Hightower; Hilbert; Hilderbran; Hinojosa; Hirschi; Hochberg; Holzheuser; Jones, J.; Kamel; Keel; Keffer; King; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McCall; McReynolds; Moffat; Moreno; Naishtat; Oakley; Olivo; Patterson; Pickett; Pitts; Place; Price; Puente; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Shields; Smith; Solis; Solomons; Stiles; Swinford; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Van de Putte; Walker; Williamson; Wilson; Wise; Wohlgemuth; Woolley; Yarbrough; Zbraneck.

Nays — Averitt; Bonnen; Brimer; Carter; Chisum; Christian; Corte; Crabb; Delisi; Denny; Driver; Elkins; Goolsby; Hartnett; Heflin; Hill; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Krusee; Kubiak; Merritt; Mowery; Nixon; Palmer; Rabuck; Ramsay; Siebert; Smithee; Staples; Talton; West; Williams.

Present, not voting — Mr. Speaker; Madden; Uher(C).

Absent, Excused — Grusendorf; Junell; Oliveira; Serna.

Absent — Ehrhardt; Hodge; Marchant; McClendon; Seaman; Wolens.

STATEMENTS OF VOTE

When Record No. 401 was taken, my vote failed to register. I would have voted yes.

Ehrhardt

When Record No. 401 was taken, my vote failed to register. I would have voted yes.

Hodge

I was shown voting no on Record No. 401. I intended to vote yes.

Hunter

When Record No. 401 was taken, my vote failed to register. I would have voted yes.

McClendon

When Record No. 401 was taken, my vote failed to register. I would have voted yes.

Wolens

HB 1212 - CONFERENCE COMMITTEE APPOINTED

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1212**: Averitt, chair, Van de Putte, Smithee, Eiland, and Olivo.

HB 1482 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Carter called up with senate amendments for consideration at this time,

HB 1482, A bill to be entitled An Act relating to computer and telecommunications offenses; providing penalties.

On motion of Representative Carter, the house concurred in the senate amendments to **HB 1482**.

Senate Amendment No. 1

Amend SECTION 2. Section 33.02, Penal Code as follows:

On page 3, line 15, after the word "more.", insert the following subsection:

"(d) a person who is subject to prosecution under this section and any other section of this code may be prosecuted under either or both sections."

**HB 1638 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Kuempel called up with senate amendments for consideration at this time,

HB 1638, A bill to be entitled An Act relating to participation and credit in, contributions to, and benefits and administration of the Texas County and District Retirement System.

On motion of Representative Kuempel, the house concurred in the senate amendments to **HB 1638**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 1638** in SECTION 21 of the bill, amended Section 845.301(a), Government Code, by striking "Investment and management decisions concerning individual investments must be evaluated not in isolation but in the context of the investment portfolio as a whole and as part of an overall investment strategy consistent with the investment objectives of the retirement system." and substituting "Investment decisions are subject to the standard provided in the Texas Trust Code by Section 113.056(a), Property Code." (House Engrsment, page 18, lines 12-16).

**HB 1710 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative G. Lewis called up with senate amendments for consideration at this time,

HB 1710, A bill to be entitled An Act relating to the appointment of bailiffs for the district courts in Tarrant County that give preference to criminal cases.

Representative G. Lewis moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1710**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1710**: G. Lewis, chair, Thompson, Crabb, Luna, and Solis.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 4** and **HJR 4**:

Hochberg on motion of R. Lewis.

**HB 1747 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Place called up with senate amendments for consideration at this time,

HB 1747, A bill to be entitled An Act relating to procedures to deal with an individual who is in the criminal justice system and who has a mental illness or is a person with mental retardation.

On motion of Representative Place, the house concurred in the senate amendments to **HB 1747**.

Senate Amendment No. 1

Amend **HB 1747** as follows:

Strike page 2, line 7, and insert in lieu thereof: "unless good cause is shown otherwise or if the:"

**HB 1836 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Goolsby called up with senate amendments for consideration at this time,

HB 1836, A bill to be entitled An Act relating to the interval between internal inspections of certain boilers.

Representative Goolsby moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1836**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1836**: Goolsby, chair, Yarbrough, Keffer, Raymond, and Siebert.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Heflin on motion of Crabb.

HB 1300 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Corte submitted the following conference committee report on **HB 1300**:

Austin, Texas, May 7, 1997

Honorable Bob Bullock
President of the Senate

Honorable Pete Laney
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1300** have met

and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona

Fraser

Duncan

Shapleigh

Ogden

On the part of the Senate

Kubiak

Greenberg

McCall

Oliveira

Corte

On the part of the House

HB 1300, A bill to be entitled An Act relating to the provision of certain software or services to persons who access the Internet; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 35, Business & Commerce Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. PROVISION OF SOFTWARE OR SERVICES
TO BLOCK OR SCREEN INTERNET MATERIAL

Sec. 35.101. DEFINITIONS. In this subchapter:

(1) "Freeware" means software that is distributed to a person free of charge regardless of whether use of the software is subject to certain restrictions.

(2) "Internet" means the largest nonproprietary nonprofit cooperative public computer network, popularly known as the Internet.

(3) "Interactive computer service" means any information service or system that provides or enables computer access by multiple users to the Internet.

(4) "Shareware" means copyrighted software in which the copyright owner sets certain conditions for its use and distribution, including requiring payment to the copyright owner after a person who has secured a copy of the software decides to use the software, regardless of whether the payment is for additional support or functionality for the software.

Sec. 35.102. SOFTWARE OR SERVICES THAT RESTRICT ACCESS TO CERTAIN MATERIAL ON INTERNET. (a) A person who provides an interactive computer service to another person for a fee shall provide free of charge to each subscriber of the service in this state a link leading to fully functional shareware, freeware, or demonstration versions of software or to a service that, for at least one operating system, enables the subscriber to automatically block or screen material on the Internet.

(b) A provider is considered to be in compliance with this section if the provider places, on the provider's first page of world wide web text information accessible to a subscriber, a link leading to the software or a service described by Subsection (a). The identity of the link or other on-screen depiction of the link must appear set out from surrounding written or graphical material so as to be conspicuous.

(c) This section does not apply to the General Services Commission, in its capacity as the telecommunications provider for the state, and an institution of higher education, as that term is defined by Section 61.003, Education Code, that provides interactive computer service.

(d) A person who provides a link that complies with this section is not

liable to a subscriber for any temporary inoperability of the link or for the effectiveness of the software or service that the person links to.

Sec. 35.103. CIVIL PENALTY. (a) A person is liable to the state for a civil penalty of \$2,000 for each day on which the person provides an interactive computer service for a fee but fails to provide a link to software or a service as required by Section 35.102. The aggregate civil penalty may not exceed \$60,000.

(b) The attorney general may institute a suit to recover the civil penalty. Before filing suit, the attorney general shall give the person notice of the person's noncompliance and liability for a civil penalty. If the person complies with the requirements of Section 35.102 not later than the 30th day after the date of the notice, the violation is considered cured and the person is not liable for the civil penalty.

SECTION 2. This Act takes effect September 1, 1997, except that a civil penalty for a violation of Section 35.102, Business & Commerce Code, as added by this Act, may be imposed only for a violation that occurs on or after January 1, 1998.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Corte moved to adopt the conference committee report on **HB 1300**.

The motion prevailed without objection.

HR 858 - ADOPTED
(by Alvarado)

Representative Alvarado moved to suspend all necessary rules to take up and consider at this time **HR 858**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

HR 858, Honoring Dr. Damaso A. Oliva, Jr., on his outstanding achievements.

HR 858 was adopted without objection.

On motion of Representative Kubiak, the names of all the members of the house were added to **HR 858** as signers thereof.

HCR 253 - ADOPTED
(by Olivo)

Representative Olivo moved to suspend all necessary rules to take up and consider at this time **HCR 253**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

HCR 253, Commemorating the 50th anniversary of the Fort Bend County Library System.

HCR 253 was adopted without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 4** and **HJR 4**:

Hernandez on motion of Solis.

**HR 908 - ADOPTED
(by Dunnam)**

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HR 908**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

HR 908, Honoring Professor Lynn F. Anderson on the occasion of his retirement from the Lyndon Baines Johnson School of Public Affairs.

HR 908 was adopted without objection.

(Speaker in the chair)

**HR 907 - ADOPTED
(by Solis)**

Representative Solis moved to suspend all necessary rules to take up and consider at this time **HR 907**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 907, Congratulating Beatriz von Ohlen on the completion of her nursing degree.

HR 907 was adopted without objection.

(Hernandez and Hochberg now present)

HB 3464 - MOTION TO SET AS A SPECIAL ORDER

Pursuant to Rule 6, Section 2, of the House Rules, Representative Wohlgemuth moved to set **HB 3464** as a special order for today at 5 p.m.

(Junell now present)

The motion was lost.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

POSTPONED BUSINESS

The following bills were laid before the house as postponed business.

**SB 706 ON SECOND READING
(Brimer - House Sponsor)**

SB 706, A bill to be entitled An Act relating to recomputation of an employer's unemployment compensation experience rate based on payment by the employer of certain voluntary contributions.

SB 706 was considered in lieu of **HB 994**.

SB 706 was read second time and was passed to third reading.

HB 994 - LAID ON THE TABLE SUBJECT TO CALL

Representative Brimer moved to lay **HB 994** on the table subject to call.

The motion prevailed without objection.

SB 394 ON SECOND READING

(Naishtat - House Sponsor)

SB 394, A bill to be entitled An Act relating to the application process for state loan and loan guaranty programs.

SB 394 was considered in lieu of **HB 876**.

SB 394 was read second time and was passed to third reading.

HB 876 - LAID ON THE TABLE SUBJECT TO CALL

Representative Naishtat moved to lay **HB 876** on the table subject to call.

The motion prevailed without objection.

CSSB 1534 ON SECOND READING

(Berlanga, Culberson, Bosse, Goodman,
Naishtat, et al. - House Sponsors)

CSSB 1534, A bill to be entitled An Act relating to additional court filing fees to provide basic civil legal services to the indigent.

CSSB 1534 was considered in lieu of **CSHB 2917**.

CSSB 1534 was read second time.

Amendment No. 1

Representative Culberson offered the following amendment to **CSSB 1534**:

Amend **CSSB 1534** as follows:

(1) On page 2, lines 16 and 17, strike "that define circumstances requiring" and substitute ", including".

(2) On page 3, line 9, strike "Funds" and substitute "Notwithstanding any provision of law to the contrary, funds".

(3) On page 3, line 17, strike "against" and substitute ", solely on behalf of the individual or the individual's dependent or ward to compel".

(4) On page 3, line 17, strike "obtain" and substitute "provide".

(5) On page 3, line 18, between "is" and "eligible" insert "expressly".

(6) On page 3, line 19, strike "from a governmental entity as expressly granted under a" and substitute ", by".

(7) On page 3, line 25, between "individual" and "but" insert a comma.

(8) On page 3, line 26, strike "including" and substitute "to support".

(9) On page 4, line 17, between "disbursement" and the period, insert "and the sanctions imposed, if any".

(10) At the end of SECTION 1 of the bill, page 4, between lines 18 and 19, add Subsection (g) to read as follows:

(g) A legal aid society or legal services program that is awarded attorney's fees in a case shall send the attorney's fees to the comptroller if any attorney

representing any party involved in the case was paid in that case directly from funds from a grant made under this subchapter. The comptroller shall deposit the fees to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to the indigent.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative R. Lewis offered the following amendment to **CSSB 1534**:

Amend **CSSB 1534** as follows:

In SECTION 1 of the bill, strike the proposed Sections 51.901(c) and (d), Government Code (page 2, lines 1-12), and substitute as follows:

(c) The clerk shall send the fees collected under Subsection (a)(1) to the comptroller not later than the 10th day after the end of each quarter.

(d) The clerk shall remit the fees collected under Subsections (a)(2)-(5) at least as frequently as monthly to the county treasurer or the person who performs the duties of the county treasurer. The county treasurer or the person performing the duties of the county treasurer shall keep a record of the amount of money received under this subsection. The county treasurer or the person who performs the duties of the county treasurer shall remit the fees collected, minus an amount ordered retained by the county commissioners court as provided by Subsection (e), to the comptroller not later than the 10th day after the end of each quarter.

(e) The commissioners court by order may require the county treasurer or the person who performs the duties of the county treasurer to deposit in the county's general revenue account five percent of the fees collected under Subsections (a)(2)-(5) to reimburse the county for the expense of collecting and remitting the fees collected under Subsections (a)(2)-(5).

(f) The comptroller shall deposit the fees received under this section to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to the indigent.

(g) In this section:

(1) "Family law matters" has the meaning assigned "family law cases and proceedings" by Section 25.0002.

(2) "Indigent" means an individual who earns not more than 125 percent of the income standard established by applicable federal poverty guidelines.

Amendment No. 2 was adopted without objection.

CSSB 1534, as amended, was passed to third reading. (Hartnett and Madden recorded voting no)

CSHB 2917 - LAID ON THE TABLE SUBJECT TO CALL

Representative Berlanga moved to lay **CSHB 2917** on the table subject to call.

The motion prevailed without objection.

HB 3387 ON SECOND READING
(by Gallego)

HB 3387, A bill to be entitled An Act relating to the duties and operations of a watermaster's office, reimbursement of the Texas Natural Resource Conservation Commission for the compensation and necessary expenses of a watermaster's office, and creation of the watermaster fund.

HB 3387 was read second time on May 10 and was postponed until 10 a.m. today.

Representative Gallego moved to postpone consideration of **HB 3387** until 10 a.m. Thursday, May 15.

The motion prevailed without objection.

HB 3216 ON SECOND READING
(by Stiles and Brimer)

HB 3216, A bill to be entitled An Act relating to the use of attorneys representing insurance carriers in certain workers' compensation proceedings.

HB 3216 was read second time on April 16, postponed until April 23, postponed until April 30, postponed until May 5, postponed until May 7, postponed until May 10, and was again postponed until 10 a.m. today.

Representative D. Jones moved to postpone consideration of **HB 3216** until 6 p.m. today.

The motion prevailed without objection.

SB 773 ON SECOND READING
(Mowery - House Sponsor)

SB 773, A bill to be entitled An Act relating to restricting the use of designated lanes of certain highways.

SB 773 was considered in lieu of **CSHB 393**.

SB 773 was read second time and was passed to third reading.

CSHB 393 - LAID ON THE TABLE SUBJECT TO CALL

Representative Mowery moved to lay **CSHB 393** on the table subject to call.

The motion prevailed without objection.

SB 1313 ON SECOND READING
(Hirschi - House Sponsor)

SB 1313, A bill to be entitled An Act relating to the designation of licensed dietitians as service providers under the chronically ill and disabled children's services program.

SB 1313 was considered in lieu of **HB 2449**.

SB 1313 was read second time and was passed to third reading.

HB 2449 - LAID ON THE TABLE SUBJECT TO CALL

Representative Hirschi moved to lay **HB 2449** on the table subject to call.
The motion prevailed without objection.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a meeting of the conference committee on **HB 4** and **HJR 4**:

Sadler on motion of Berlanga.

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on **HB 4** and **HJR 4**:

Stiles on motion of Berlanga.

Hochberg on motion of Berlanga.

Brimer on motion of Berlanga.

Craddick on motion of Berlanga.

The following members were granted leaves of absence for the remainder of today to attend a meeting of the conference committee on **HB 1**:

Coleman on motion of R. Lewis.

Gallego on motion of R. Lewis.

Junell on motion of R. Lewis.

CSHB 119 ON SECOND READING
(by Hirschi, Maxey, Naishtat, et al.)

CSHB 119, A bill to be entitled An Act relating to disclosure of ingredients in cigarettes and tobacco products.

CSHB 119 was read second time on May 12 and was postponed until 10 a.m. today.

Amendment No. 1

Representative Hirschi offered the following amendment to **CSHB 119**:

Amend **CSHB 119** as follows:

(1) On page 1, lines 18 and 19, strike "manufactured by the manufacturer in this state or".

(2) On page 2, lines 15 and 16, strike "manufactured by the manufacturer in this state or".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Chisum offered the following amendment to **CSHB 119**:

Amend **CSHB 119** on Page 3, line 10 by adding to Sec. 161.254 a new subsection (d) to read as follows:

(d) Nothing herein shall require the disclosure of legally protected trade secrets.

Representative Hirschi moved to table Amendment No. 2.

The motion to table was lost.

A record vote was requested.

The vote of the house was taken on the adoption of Amendment No. 2 and the vote was announced yeas 66, nays 64.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 402): 65 Yeas, 63 Nays, 1 Present, not voting.

Yeas — Bonnen; Carter; Chisum; Christian; Cook; Corte; Crabb; Cuellar; Culberson; Delisi; Denny; Driver; Eiland; Elkins; Galloway; Goodman; Haggerty; Hamric; Hawley; Hightower; Hilbert; Hilderbran; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Kamel; Keel; Keffer; King; Krusee; Kuempel; Madden; Marchant; Merritt; Moffat; Mowery; Nixon; Palmer; Patterson; Rabuck; Ramsay; Reyna, E.; Roman; Seaman; Shields; Siebert; Smith; Solomons; Staples; Swinford; Talton; Telford; Turner, B.; Uher; Walker; West; Williams; Wohlgemuth; Woolley; Yarbrough.

Nays — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bosse; Burnam; Chavez; Clark; Counts; Danburg; Davila; Davis; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Farrar; Finnell; Flores; Garcia; Giddings; Glaze; Goolsby; Gray; Greenberg; Gutierrez; Hartnett; Hernandez; Hill; Hinojosa; Hirschi; Hodge; Jones, J.; Kubiak; Lewis, G.; Lewis, R.; Luna; Maxey; McClendon; McReynolds; Moreno; Naishtat; Olivo; Pickett; Place; Price; Puente; Rangel; Raymond; Reyna, A.; Rhodes; Solis; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Wise; Wolens; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Grusendorf; Heflin; Oliveira; Serna.

Absent, Excused, Committee Meeting — Brimer; Coleman; Craddick; Gallego; Hochberg; Junell; Sadler; Stiles.

Absent — Jones, D.; Longoria; McCall; Oakley; Pitts; Smithee; Williamson; Wilson.

The speaker stated that Amendment No. 2 was adopted by the above vote.

STATEMENT OF VOTE

When Record No. 402 was taken, I was temporarily out of the house chamber, I would have voted yes.

Smithee

CSHB 119, as amended, was passed to engrossment. (Craddick recorded voting no)

MAJOR STATE CALENDAR HOUSE BILLS THIRD READING

The following bills were laid before the house and read third time:

HB 1188 ON THIRD READING**(by Danburg, Patterson, Marchant, Hill, Hernandez, et al.)**

HB 1188, A bill to be entitled An Act relating to permitting an encumbrance against homestead property for certain extensions of equity credit.

Amendment No. 1

Representative Counts offered the following amendment to **HB 1188**:

Amend **HB 1188** on third reading by adding the following Section:

In proposed Title 16, Art. 352. REPORT BY FINANCIAL INSTITUTIONS add a new Sec. 9 to read:

Sec. 9. FORM OF REPORT: CREDIT UNION COMMISSION DUTIES. For the purposes of this article the Credit Union Commission may adopt rules to define terms not defined by this article and to provide for the administration of this article including the administration of Sec. 7 relating to penalties. A credit union submitting a report under this article must submit the report on the form prescribed by the Credit Union Commission of Texas.

Amendment No. 1 was adopted without objection.

HB 1188, as amended, was passed.

HB 1662 ON THIRD READING**(by Counts)**

HB 1662, A bill to be entitled An Act relating to rates for certain lines of insurance.

A record vote was requested.

HB 1662 was passed by (Record 403): 88 Yeas, 43 Nays, 2 Present, not voting.

Yeas — Allen; Averitt; Bailey; Berlanga; Bonnen; Bosse; Burnam; Chavez; Chisum; Christian; Cook; Counts; Cuellar; Culberson; Danburg; Davila; Delisi; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Flores; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Gutierrez; Haggerty; Hawley; Hightower; Hinojosa; Hirschi; Hodge; Hunter; Jones, D.; Jones, J.; Kamel; Keel; Keffer; King; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Maxey; McCall; McReynolds; Merritt; Moffat; Moreno; Naishtat; Olivo; Palmer; Patterson; Pickett; Place; Price; Puente; Rabuck; Rangel; Raymond; Reyna, A.; Rhodes; Smith; Smithee; Solis; Swinford; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Walker; Williamson; Wilson; Wise; Wolens; Yarbrough; Zbraneck.

Nays — Alvarado; Clark; Corte; Crabb; Davis; Denny; Driver; Elkins; Finnell; Galloway; Hamric; Hartnett; Hernandez; Hilbert; Hill; Holzheuser; Horn; Howard; Hupp; Isett; Janek; Krusee; Luna; Madden; Marchant; McClendon; Mowery; Nixon; Pitts; Ramsay; Reyna, E.; Roman; Seaman; Shields; Siebert; Solomons; Staples; Talton; Van de Putte; West; Williams; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker(C); Carter.

Absent, Excused — Grusendorf; Heflin; Oliveira; Serna.

Absent, Excused, Committee Meeting — Brimer; Coleman; Craddick; Gallego; Hochberg; Junell; Sadler; Stiles.

Absent — Alexander; Hilderbran; Jackson; Oakley.

STATEMENTS OF VOTE

When Record No. 403 was taken, I was absent because of a meeting of the conference committee on **HB 4** and **HJR 4**. Had I been present, I would have voted no.

Craddick

When Record No. 403 was taken, I was temporarily out of the house chamber in the Appropriations Conference Committee meeting. I would have voted no.

Hilderbran

When Record No. 403 was taken, I was in the house but away from my desk. I would have voted no.

Jackson

I was shown voting yes on Record No. 403. I intended to vote no.

Longoria

I was shown voting yes on Record No. 403. I intended to vote no.

Moffat

HB 2385 ON THIRD READING (by Delisi)

HB 2385, A bill to be entitled An Act relating to the creation of the Health and Human Services Policy Council.

HB 2385 was passed.

HB 583 ON THIRD READING (by Maxey)

HB 583, A bill to be entitled An Act relating to public education, including the parental involvement division of the Texas Education Agency, public school campus report cards, and the use of certain public school funds.

Amendment No. 1

Representatives Corte and Maxey offered the following amendment to **HB 583**:

Amend **HB 583** second reading engrossment as follows:

1. On page 2, line 24 add the following:

(c) Phone numbers required under Subsections (b)(4) and (5) must be toll free to further encourage parental involvement.

2. Renumber the subsequent sections appropriately.

Amendment No. 1 was adopted without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a meeting of the conference committee on **HB 1**:

Delisi on motion of R. Lewis.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 5).

HB 583 - (consideration continued)

Amendment No. 2

Representative Wilson offered the following amendment to **HB 583**:

Amend **HB 583** on third reading by adding the following appropriately numbered sections and renumbering existing sections appropriately:

SECTION _____. Subchapter B, Chapter 101, Civil Practice and Remedies Code, is amended by adding Section 101.0216 to read as follows:

Sec. 101.0216. LIABILITY OF SCHOOL DISTRICT. (a) A school district is liable for damages for personal injury or death if:

(1) the personal injury or death is proximately caused by the sexual misconduct of an employee with respect to a student of the school district;

(2) the employee comes into contact with students of the school district in the scope of the employee's employment; and

(3) because of specific facts known to the school district, the school district knew or should have known that the employee posed a risk to students.

(b) Sections 101.023, 101.024, and 101.106 do not apply to the liability of a school district under this section.

(c) In this section, "sexual misconduct" includes any conduct that would be a violation of Chapter 21, Penal Code, and the victim of which is a child younger than 18 years of age, without regard to whether the person is convicted of an offense with respect to the conduct.

SECTION _____. Section 101.051, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 101.051. SCHOOL AND JUNIOR COLLEGE DISTRICTS PARTIALLY EXCLUDED. (a) Except as to motor vehicles, this chapter does not apply [to a school district or] to a junior college district.

(b) Except as to motor vehicles and as provided by Section 101.0216, this chapter does not apply to a school district.

SECTION _____. Section 22.051(b), Education Code, is amended to read as follows:

(b) This section does not apply to the operation, use, or maintenance of any motor vehicle or to any act for which a school district may be liable under Section 101.0216, Civil Practice and Remedies Code.

SECTION _____. The provisions of this Act relating to school liability apply only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act and that law is continued in effect for that purpose.

Amendment No. 2 was adopted without objection.

HB 583, as amended, was passed. (Chisum, Craddick, Finnell, Isett, and Kubiak recorded voting no)

HB 1202 ON THIRD READING
(by Uher, Hawley, Patterson, Junell, Allen, et al.)

HB 1202, A bill to be entitled An Act relating to the liability of certain persons for injury to others that occurs on certain real property.

Amendment No. 1

Representative Uher offered the following amendment to **HB 1202**:

Amend **HB 1202**, second reading engrossment, on page 3, between lines 5 and 6, by inserting the following:

(f) This subchapter does not apply to residential real property. For purposes of this subchapter, residential real property includes:

(1) multiunit rental complexes or rental dwellings in a condominium, cooperative, or town home project and any improvements to that property; and

(2) common areas that are subject to the control of a property owner's association and any improvements to those common areas.

Amendment No. 1 was adopted without objection.

HB 1202, as amended, was passed.

MAJOR STATE CALENDAR
SENATE BILLS
THIRD READING

The following bills were laid before the house and read third time:

SB 1380 ON THIRD READING
(Hernandez - House Sponsor)

SB 1380, A bill to be entitled An Act relating to the creation of an electronic state business daily to give notice before a state agency makes a procurement with a value that exceeds \$25,000.

SB 1380 was passed.

MAJOR STATE CALENDAR
HOUSE BILLS
SECOND READING

The following bills were laid before the house and read second time:

HB 3576 ON SECOND READING
(by Stiles)

HB 3576, A bill to be entitled An Act relating to state agencies use of special mail services.

Representative Price moved to postpone consideration of **HB 3576** until 6 p.m. today.

The motion prevailed without objection.

CSHB 2481 ON SECOND READING
(by Swinford, West, Hawley, B. Turner, Chisum, et al.)

CSHB 2481, A bill to be entitled An Act relating to faith-based chemical dependency treatment programs and counselors.

CSHB 2481 was passed to engrossment.

**CSHB 3054 ON SECOND READING
(by Berlanga)**

CSHB 3054, A bill to be entitled An Act relating to the creation of an immunization registry and to reporting requirements concerning immunizations; providing a criminal penalty.

(Haggerty in the chair)

CSHB 3054 was passed to engrossment. (Isett and Talton recorded voting no)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Smithee on motion of West.

**CSHB 298 ON SECOND READING
(by Madden, Maxey, Danburg, Denny, J. Jones, et al.)**

CSHB 298, A bill to be entitled An Act relating to election dates and to information concerning cost savings in the conduct of elections.

Amendment No. 1

Representative Madden offered the following amendment to **CSHB 298**:

Amend **CSHB 298** as follows:

(1) On page 1, line 18, strike "Subsection (c)" and substitute "Subsections (c) and (d)".

(2) On page 2, between lines 21 and 22, insert the following:

(c) A general election of officers of a city, school district, junior college district, or hospital district may not be held on the January or August uniform election date.

(3) On page 2, line 22, strike "(c)" and substitute "(d)".

(4) Strike Section 3 of the bill, page 2, line 27 through page 3, line 27.

(5) Insert an appropriately numbered section of the bill as follows:

SECTION _____. Section 41.0052(a), Election Code, is amended to read as follows:

(a) The governing body of a political subdivision other than a county may, not later than December 31, 1997 [~~1993~~], change the date on which it holds its general election for officers to another authorized uniform election date. An election on the new date may not be held before 1998 [~~1994~~].

(6) Insert an appropriately numbered section of the bill as follows:

SECTION _____. Section 41.003, Election Code, is repealed.

(7) In Section 5 of the bill, on page 4, between lines 21 and 22, insert the following:

(c) The prohibition on using the August uniform election date under Section 41.001(c), Election Code, as added by this Act, does not apply to an election to be held on that date in 1997.

(d) Section 41.006, Election Code, applies to the change in election dates under this Act.

(e) If this Act conflicts with another Act of the 75th Legislature, Regular Session, 1997, the changes in law made by this Act prevail to the extent of the conflict regardless of the relative dates of enactment.

(8) Renumber remaining sections of the bill accordingly.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Madden offered the following amendment to **CSHB 298**:

Amend **CSHB 298** on page 2, line 23, by striking "or (6)" and substituting "(6), or (7)".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Walker offered the following amendment to **CSHB 298**:

Amend **CSHB 298** on page 1 between lines 17 and 18 by adding the following language to Section 31.122 of the Election Code after subsection (a). Renumber existing sections of **CSHB 298** appropriately.

Section 31.122. OFFICE HOURS OF AN ELECTION AUTHORITY DURING ELECTION PERIOD. (b) If the political subdivision is an independent school district, a regular business day means a day on which the school district's main business office is regularly open for business.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representatives Maxey, Greenberg, Keel, and Naishtat offered the following amendment to **CSHB 298**:

Amend **CSHB 298** as follows:

(1) Add the following appropriately numbered section:

SECTION _____. (a) Subchapter A, Chapter 41, Election Code, is amended by adding Section 41.0031 to read as follows:

Sec. 41.0031. ELECTIONS IN MARCH IN CERTAIN POLITICAL SUBDIVISIONS. (a) This section applies only to:

(1) a city with a population of more than 450,000 in which all members of the city's governing body are elected at large;

(2) an independent school district or public junior college district with a service area that is primarily the same as that of a city described by Subdivision (1);

(3) a metropolitan transit authority with a principal city described by Subdivision (1); and

(b) A general or special election of officers of a political subdivision covered by this section shall be held on the fourth Saturday in March.

(b) Section 7(c), Chapter 429, Acts of the 70th Legislature, Regular Session, 1987, is amended to read as follows:

(c) The directors elected at the first election shall draw lots for three four-year terms and two two-year terms. Thereafter, all directors shall serve four-year terms, and all directors elections shall occur on the fourth Saturday in March [~~May general election date~~] of even-numbered years.

(c) The governing body of a political subdivision holding an election under Subsection (a) of this section shall adjust the terms of office to conform to the new election date. The governing body shall adjust the election schedule to conform to the new date as provided by Section 41.006, Election Code.

(d) This section prevails over another Act of the 75th Legislature, Regular Session, 1997, to the extent of a conflict.

Amendment No. 4 was adopted without objection.

CSHB 298, as amended, was passed to engrossment. (Finnell recorded voting no)

HB 2324 ON SECOND READING (by Allen)

HB 2324, A bill to be entitled An Act relating to the organization and operation of prison industries, agricultural programs, and work programs of the Texas Department of Criminal Justice; providing a penalty.

Amendment No. 1

Representative Allen offered the following amendment to **HB 2324**:

Amend **HB 2324** as follows:

(1) On page 3, line 25, immediately after "equipment," add "buy industrial raw materials and supplies".

(2) On page 9, strike lines 21-27, and on page 10, strike line 1 and substitute the following:

A [Nothing herein shall be interpreted to require a] political subdivision may decline to purchase goods or articles from the office [division] if the political subdivision determines, after giving the office a final opportunity to negotiate on price, that the goods or articles can be purchased elsewhere at a lower price, An [or an] agency may decline to purchase goods or articles from the office [division] if the agency determines, after giving the office a final opportunity to negotiate on price, and the General Services Commission certifies, that the goods or articles can be purchased elsewhere at a lower price.

Amendment No. 1 was adopted without objection.

HB 2324, as amended, was passed to engrossment.

CSHB 102 ON SECOND READING (by Gray, Greenberg, Van de Putte, McCall, et al.)

CSHB 102, A bill to be entitled An Act relating to minimum coverage under certain health benefit plans for inpatient stays and postdelivery care following the birth of a child.

CSHB 102 was passed to engrossment.

SB 1906 ON SECOND READING (Eiland - House Sponsor)

SB 1906, A bill to be entitled An Act relating to the administration of oil overcharge funds.

SB 1906 was considered in lieu of **HB 3471**.

Amendment No. 1

Representative Davis offered the following amendment to **SB 1906**:

Amend **SB 1906** in SECTION 9 of the bill, amended Section 2305.036(c), Government Code, by striking Subdivision (5) (House Committee Report, page 8, lines 18-19) and substituting the following:

(5) funding of a weatherization assistance program through the Texas Department of Housing and Community Affairs to benefit individuals of low income.

Amendment No. 1 was adopted without objection.

SB 1906, as amended, was passed to third reading.

HB 3471 - LAID ON THE TABLE SUBJECT TO CALL

Representative Eiland moved to lay **CSHB 3471** on the table subject to call.

The motion prevailed without objection.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a meeting of the conference committee on **HB 1**:

Swinford on motion of Chisum.

(Stiles now present)

(Speaker in the chair)

CSHB 3059 ON SECOND READING
(by King)

CSHB 3059, A bill to be entitled An Act relating to the regulation of on-site sewage disposal facilities.

Amendment No. 1

Representative King offered the following amendment to **CSHB 3059**:

Amend **CSHB 3059** on page 3 by striking lines 15-18 and substituting:

(b) Except as provided by Subsection (a), an authorized agent by order or resolution or the commission by rule may condition approval of a permit for an on-site sewage disposal system on the system's owner contracting for the maintenance of the system. If a maintenance contract is required, the owner of the on-site sewage disposal system must submit to the permitting authority:

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative R. Lewis offered the following amendment to **CSHB 3059**:

Amend **CSHB 3059** as follows:

(1) On page 3, strike lines 11-13 and substitute: "system using aerobic treatment for a single-family residence located in a county with a population of less than 40,000 on the system's owner contracting for the maintenance of".

(2) On page 4, between lines 25 and 26, insert:

(f) The installer of an on-site sewage disposal system shall provide the owner of the system with information regarding maintenance of the system at the time the system is installed.

(g) The owner of a single-family residence located in a county with a population of less than 40,000 shall maintain the system directly or through a maintenance contract. If the owner elects to maintain the system directly, the owner must obtain training in system maintenance from the authorized agent or the installer.

Amendment No. 2 was adopted without objection.

CSHB 3059, as amended, was passed to engrossment.

CSHB 2913 ON SECOND READING
(by Berlanga, et al.)

CSHB 2913, A bill to be entitled An Act relating to the authority of the Health and Human Services Commission to administer and operate the Medicaid managed care program.

Amendment No. 1

Representative Berlanga offered the following amendment to **CSHB 2913**:

Amend **CSHB 2913** by striking SECTIONS 3 and 4 of the bill and substituting the following:

SECTION 3. (a) Subtitle I, Title 4, Government Code, is amended by adding Chapter 533 to read as follows:

CHAPTER 533. IMPLEMENTATION OF MEDICAID
MANAGED CARE PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 533.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission or an agency operating part of the state Medicaid managed care program, as appropriate.

(2) "Commissioner" means the commissioner of health and human services.

(3) "Health and human services agencies" has the meaning assigned by Section 531.001.

(4) "Managed care organization" means a person who is authorized or otherwise permitted by law to arrange for or provide a managed care plan.

(5) "Managed care plan" means a plan under which a person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services. A part of the plan must consist of arranging for or providing health care services as distinguished from indemnification against the cost of those services on a prepaid basis through insurance or otherwise. The term includes a primary care case management provider network. The term does not include a plan that indemnifies a person for the cost of health care services through insurance.

(6) "Recipient" means a recipient of medical assistance under Chapter 32, Human Resources Code.

Sec. 533.002. PURPOSE. The commission shall implement the Medicaid

managed care program as part of the health care delivery system developed under Chapter 532 by contracting with managed care organizations in a manner that, to the extent possible:

- (1) improves the health of Texans by:
 - (A) emphasizing prevention;
 - (B) promoting continuity of care; and
 - (C) providing a medical home for recipients;
- (2) ensures that each recipient receives high quality, comprehensive health care services in the recipient's local community;
- (3) encourages the training of and access to primary care physicians and providers;
- (4) maximizes cooperation with existing public health entities, including local departments of health;
- (5) provides incentives to managed care organizations, other than managed care organizations created by political subdivisions with constitutional or statutory obligations to provide health care to indigent patients, to improve the quality of health care services for recipients by providing value-added services, including services listed in Section 533.008(2)(D); and
- (6) reduces administrative and other nonfinancial barriers for recipients in obtaining health care services.

Sec. 533.003. CONSIDERATIONS IN AWARDING CONTRACTS. In awarding contracts to managed care organizations, the commission shall:

- (1) give extra consideration to organizations that agree to assure continuity of care for at least three months beyond the period of Medicaid eligibility for recipients; and
- (2) consider the need to use different managed care plans to meet the needs of different populations.

Sec. 533.004. MANDATORY CONTRACTS. (a) In implementing Medicaid managed care in a health care service region, the commission shall contract with at least one managed care organization in that region that:

- (1) is created by a political subdivision with a constitutional or statutory obligation to provide health care to indigent patients;
- (2) is licensed to provide health care in that region; and
- (3) demonstrates its ability to meet the contractual obligations delineated in the commission's request for applications to enter into a contract with commission to provide health care to recipients in that region.

(b) A contract with a managed care organization described in Subsection (a) must contain the same requirements and capitation rate as contracts with other managed care organizations to provide health care services to recipients in that region.

(c) The commission may not contract with a managed care organization created by a political subdivision under Subsection (a)(1)(A) unless the political subdivision has entered into an agreement with the state to provide funds for the expansion of Medicaid for children as described by SB 10, Acts of the 74th Legislature, Regular Session, 1995.

Sec. 533.005. REQUIRED CONTRACT PROVISIONS. A contract between a managed care organization and the commission for the organization to provide health care services to recipients must contain:

(1) procedures to ensure accountability to the state for the provision of health care services, including procedures for financial reporting, quality assurance, utilization review, and assurance of contract and subcontract compliance;

(2) capitation and provider payment rates that ensure the cost-effective provision of high quality health care;

(3) a requirement that the managed care organization provide ready access to a person who assists recipients in resolving issues relating to enrollment, plan administration, education and training, access to services, and grievance procedures;

(4) a requirement that the managed care organization provide ready access to a person who assists providers in resolving issues relating to payment, plan administration, education and training, and grievance procedures;

(5) a requirement that the managed care organization provide information and referral about the availability of educational, social, and other community services that could benefit a recipient;

(6) procedures for recipient outreach and education; and

(7) a requirement that the managed care organization make payment to a physician or provider for health care services rendered to a recipient under a managed care plan not later than the 45th day after the date a claim for payment is received with documentation reasonably necessary for the managed care organization to process the claim, or within a period, not to exceed 60 days, specified by a written agreement between the physician or provider and the managed care organization.

Sec. 533.006. PROVIDER NETWORKS. (a) The commission shall require that each managed care organization that contracts with the commission to provide health care services to recipients in a region:

(1) seek participation in the organization's provider network from:

(A) each health care provider in the region who has traditionally provided care to Medicaid and charity care recipients; and

(B) each hospital in the region that has been designated as a disproportionate share hospital under the state Medicaid program; and

(2) include in its provider network for not less than three years:

(A) each health care provider in the region who:

(i) previously provided care to Medicaid and charity care recipients at a significant level as prescribed by the commission;

(ii) agrees to accept the prevailing provider contract rate of the managed care organization; and

(iii) has the credentials required by the managed care organization, provided that lack of board certification or accreditation by the Joint Commission on Accreditation of Healthcare Organizations may not be the sole ground for exclusion from the provider network;

(B) each accredited primary care residency program in the region; and

(C) each disproportionate share hospital designated by the commission as a state-wide significant traditional provider.

(b) A contract between a managed care organization and the commission for the organization to provide health care services to recipients in a health care

service region that includes a rural area must require that the organization include in its provider network rural hospitals, physicians, home and community support services agencies, and other rural health care providers who:

- (1) are sole community providers;
- (2) provide care to Medicaid and charity care recipients at a significant level as prescribed by the commission;
- (3) agree to accept the prevailing provider contract rate of the managed care organization; and
- (4) have the credentials required by the managed care organization, provided that lack of board certification or accreditation by the Joint Commission on Accreditation of Healthcare Organizations may not be the sole ground for exclusion from the provider network.

Sec. 533.007. CONTRACT COMPLIANCE. (a) The commission shall review each managed care organization that contracts with the commission to provide health care services to recipients through a managed care plan issued by the organization to determine whether the organization is prepared to meet its contractual obligations.

(b) Each managed care organization that contracts with the commission to provide health care services to recipients in a health care service region shall submit an implementation plan not later than the 90th day before the date on which the commission plans to begin to provide health care services to recipients in that region through managed care. The implementation plan must include:

(1) specific staffing patterns by function for all operations, including enrollment, information systems, member services, quality improvement, claims management, case management, and provider and recipient training; and

(2) specific time frames for demonstrating preparedness for implementation before the date on which the commission plans to begin to provide health care services to recipients in that region through managed care.

(c) The commission shall respond to an implementation plan not later than the fifth day after the date a managed care organization submits the plan if the plan does not adequately meet preparedness guidelines.

(d) Each managed care organization that contracts with the commission to provide health care services to recipients in a region shall submit status reports on the implementation plan not later than the 60th day and the 30th day before the date on which the commission plans to begin to provide health care services to recipients in that region through managed care and every 30th day after that date until the 180th day after that date.

(e) The commission shall conduct a compliance and readiness review of each managed care organization that contracts with the commission not later than the 15th day before the date on which the commission plans to begin the enrollment process in a region and again not later than the 15th day before the date on which the commission plans to begin to provide health care services to recipients in that region through managed care. The review must include an on-site inspection and tests of service authorization and claims payment systems, complaint processing systems, and any other process or system required by the contract.

(f) The commission may delay enrollment of recipients in a managed care plan issued by a managed care organization if the review reveals that the

managed care organization is not prepared to meet its contractual obligations. The commission shall notify a managed care organization of a decision to delay enrollment in a plan issued by that organization.

Sec. 533.008. MARKETING GUIDELINES. The commission shall establish marketing guidelines for managed care organizations that contract with the commission to provide health care services to recipients, including guidelines that prohibit:

(1) door-to-door marketing to recipients by managed care organizations or agents of those organizations;

(2) the use of marketing materials with inaccurate or misleading information;

(3) misrepresentations to recipients or providers;

(4) offering recipients material or financial incentives to choose a managed care plan other than nominal gifts or free health screenings approved by the commission that the managed care organization offers to all recipients regardless of whether the recipients enroll in the managed care plan;

(5) marketing at public assistance offices; and

(6) the use of marketing agents who are paid solely by the commission.

Sec. 533.009. SPECIAL DISEASE MANAGEMENT. (a) The commission shall, to the extent possible, ensure that managed care organizations under contract with the commission to provide health care services to recipients develop special disease management programs to address chronic health conditions, including asthma and diabetes.

(b) The commission may study, in conjunction with an academic center, the benefits and costs of applying disease management principles in the delivery of Medicaid managed care.

Sec. 533.010. SPECIAL PROTOCOLS. In conjunction with an academic center, the commission may study the treatment of indigent populations to develop special protocols for managed care organizations to use in providing health care services to recipients.

[Sections 533.011-533.020 reserved for expansion]

SUBCHAPTER B. REGIONAL ADVISORY COMMITTEES

Sec. 533.021. APPOINTMENT. Not later than the 180th day before the date the commission plans to begin to provide health care services to recipients in a health care service region through managed care, the commission, in consultation with health and human services agencies, shall appoint a Medicaid managed care advisory committee for that region.

Sec. 533.022. COMPOSITION. A committee consists of representatives from entities and communities in the region as considered necessary by the commission to ensure representation of interested persons, including representatives of:

(1) hospitals;

(2) managed care organizations;

(3) primary care providers;

(4) state agencies;

(5) consumer advocates;

(6) recipients; and

(7) rural providers.

Sec. 533.023. PRESIDING OFFICER; SUBCOMMITTEES. The commissioner or the commissioner's designated representative serves as the presiding officer of a committee. The presiding officer may appoint subcommittees as necessary.

Sec. 533.024. MEETINGS. (a) A committee shall meet at least quarterly for the first year after appointment of the committee and at least annually after that time.

(b) A committee is subject to Chapter 551, Government Code.

Sec. 533.025. POWERS AND DUTIES. A committee shall:

(1) comment on the implementation of Medicaid managed care in the region;

(2) provide recommendations to the commission on the improvement of Medicaid managed care in the region not later than the 30th day after the date of each committee meeting; and

(3) seek input from the public, including public comment at each committee meeting.

Sec. 533.026. INFORMATION FROM COMMISSION. On request, the commission shall provide to a committee information relating to recipient enrollment and disenrollment, recipient and provider complaints, administrative procedures, program expenditures, and education and training procedures.

Sec. 533.027. COMPENSATION; REIMBURSEMENT. (a) A member of a committee other than a representative of a health and human services agency is not entitled to receive compensation or reimbursement for travel expenses.

(b) A member of a committee who is an agency representative is entitled to reimbursement for expenses incurred in the performance of committee duties by the appointing agency in accordance with the travel provisions for state employees in the General Appropriations Act.

Sec. 533.028. OTHER LAW. Except as provided by this chapter, a committee is subject to Article 6252-33, Revised Statutes.

(b) Not later than September 1, 1997, the Health and Human Services Commission shall direct the Texas Department of Health and the Texas Department of Human Services to submit to the governor and the Legislative Budget Board a plan to realize cost savings for the state by simplifying eligibility criteria and streamlining eligibility determination processes for recipients of financial assistance under Chapter 31, Human Resources Code, recipients of medical assistance under Chapter 32, Human Resources Code, and recipients of other public assistance.

(c) Not later than December 1, 1998, the Health and Human Services Commission shall submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives on the impact of Medicaid managed care on the public health sector.

(d) Not later than the first anniversary of the date on which Medicaid recipients in a health care service region begin to receive health care services through Medicaid managed care, the Health and Human Services Commission, in cooperation with the Medicaid managed care advisory committee for that region created under Subchapter B, Chapter 533, Government Code, as added by this Act, shall submit a report to the governor, lieutenant governor, and speaker of the house of representatives on the implementation of Medicaid

managed care in that region. If Medicaid recipients in a region began to receive health care services through managed care before September 1, 1996, the commission is required to submit a report on the implementation of Medicaid managed care in that region as soon as possible after the effective date of this Act. The commission may consolidate a report with any other report relating to the same subject that the commission is required to submit under other law.

(e) Section 533.007, Government Code, as added by this Act, applies only to a contract with a managed care organization that the Health and Human Services Commission or an agency operating part of the Medicaid managed care program enters into or renews on or after the effective date of this Act. A contract with a managed care organization that the Health and Human Services Commission or an agency operating part of the Medicaid managed care program enters into or renews before the effective date of this Act is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

(f) Section 533.004, Government Code, as added by this Act, does not affect the expansion of medical assistance for children described in **HCR 189**, 75th Legislature, Regular Session, 1997.

(g) If Medicaid recipients in a health care service region began to receive health care services through managed care before the effective date of this Act, the Health and Human Services Commission or an agency operating part of the Medicaid managed care program shall appoint a Medicaid managed care advisory committee for that region in accordance with Subchapter B, Chapter 533, Government Code, as added by this Act, as soon as possible after the effective date of this Act.

(h) This section takes effect immediately.

SECTION 4. This Act takes effect September 1, 1997, except that Section 3 and this section take effect immediately.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Amendment No. 1 was adopted without objection.

Amendment No. 2

On behalf of Representatives Junell and Delisi, Representative Berlanga offered the following amendment to **CSHB 2913**:

Amend **CSHB 2913** by adding the following subsection to Section 531.021, Government Code:

(b) The commission is responsible for adopting reasonable rules and standards governing the determination of fees, charges, and rates for medical assistance payments under Chapter 32, Human Resources Code.

Make conforming changes.

Amendment No. 2 was adopted without objection.

CSHB 2913, as amended, was passed to engrossment.

CSHB 2705 ON SECOND READING
(by Chisum)

CSHB 2705, A bill to be entitled An Act relating to the program for the voluntary cleanup of contaminants.

Representative Gutierrez raised a point of order against further consideration of **CSHB 2705** under Article III, Section 36, Texas Constitution and Rule 8, Section 2, of the House Rules.

Representative Chisum moved to postpone consideration of **CSHB 2705** until 6:15 p.m. today.

The motion prevailed without objection.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

HB 3216 ON SECOND READING
(by Stiles and Brimer)

HB 3216, A bill to be entitled An Act relating to the use of attorneys representing insurance carriers in certain workers' compensation proceedings.

HB 3216 was read second time on April 16, postponed until April 23, postponed until April 30, postponed until May 5, postponed until May 7, postponed until May 10, postponed until May 13, and was again postponed until 6 p.m. today.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Rhodes, Representative Stiles offered the following committee amendment to **HB 3216**:

Amend **HB 3216** by striking lines 19-24 on page 1 and line 1 on page 2 and inserting the following:

(c) An insurance carrier may be represented by any employee or by an attorney or adjuster who is not an employee, except that an insurance carrier may not be represented by an attorney in a proceeding before the commission in which a claimant is a party if that claimant is not represented by an attorney.

Amendment No. 1 was adopted without objection.

Amendment No. 2 (Committee Amendment No. 2)

On behalf of Representative Solomons, Representative Stiles offered the following committee amendment to **HB 3216**:

Amend **HB 3216** by inserting a new section at line 4 on page 2 to read as follows:

"Section 2. An insurance carrier may be represented in any proceeding before the commission by a person who was dually licensed or registered as both an adjuster and an attorney on January 1, 1997, and who appears before the commission in the capacity of an adjuster and maintains the adjuster's license or registration in good standing."

Renumber subsequent sections appropriately.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Merritt offered the following amendment to **HB 3216**:

Amend **HB 3216** as follows:

(1) On page 2, between lines (1) and (2), insert the following:

"(d) Notwithstanding any other provision of this title, an employer of a claimant may be represented by a person who is not an attorney at any proceeding at which a claimant is entitled to be represented under Subsection (a). For purposes of this subsection, "employer" includes a person who was the employer of the claimant at the time the compensable injury occurred."

(2) On page 2, line 2, strike "(d)" and substitute "(e)".

Amendment No. 3 was adopted without objection.

HB 3216, as amended, was passed to engrossment.

HB 3576 ON SECOND READING
(by Stiles)

HB 3576, A bill to be entitled An Act relating to state agencies' use of special mail services.

HB 3576 was read second time earlier today and was postponed until 6 p.m. today.

Amendment No. 1

Representative Stiles offered the following amendment to **HB 3576**:

Amend **HB 3576** by striking all below the enacting clause and substitute the following:

SECTION 1. Chapter 2176, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. SPECIAL MAIL SERVICES

Sec. 2176.201. USE OF CERTAIN MAIL SERVICES. Notwithstanding another law that requires the use of certain mail services, a state agency may use any form of mail service available from the United States Postal Service to lower postal costs whenever acceptable levels of accountability, timeliness, security, and quality of service can be maintained.

Sec. 2176.202. CHANGE OF ADDRESS SERVICE. Notwithstanding another law regarding change of address updates, a state agency may use any change of address update service approved by the United States Postal Service for the purpose of receiving a postal discount rate.

Sec. 2176.203. NOTIFICATION OF SERVICE OPTIONS. The commission shall, as part of the guidelines developed under Section 2176.105, provide information to state agencies about special mail services offered by the United States Postal Service. The commission shall assist a state agency in determining which service to use, considering the state agency's needs for accountability, timeliness, security, and quality of service.

SECTION 2. (a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect immediately.

(b) Section 2176.201, Government Code, as added by this Act, takes effect July 1, 1997.

(c) Section 2176.203, Government Code, as added by this Act, takes effect September 1, 1997.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Amendment No. 1 was adopted without objection.

HB 3576, as amended, was passed to engrossment.

**MAJOR STATE CALENDAR
(consideration continued)**

**SB 663 ON SECOND READING
(Place - House Sponsor)**

SB 663, A bill to be entitled An Act relating to the authority of a judge to place a defendant convicted of a state jail felony on community supervision, to the supervision of those defendants, and to the facilities in which those defendants may be confined.

SB 663 was considered in lieu of **HB 2635**.

Representative Place moved to postpone consideration of **SB 663** until 10 a.m. Wednesday, May 14.

The motion prevailed without objection.

HB 2635 - LAID ON THE TABLE SUBJECT TO CALL

Representative Place moved to lay **HB 2635** on the table subject to call.

The motion prevailed without objection.

**CSHB 21 ON SECOND READING
(by Corte and Maxey)**

CSHB 21, A bill to be entitled An Act relating to liability for the donation of drugs and medical devices to certain nonprofit organizations.

Amendment No. 1

Representative Tillery offered the following amendment to **CSHB 21**:

Amend **CSHB 21** as follows:

- (1) On page 1, line 7, strike "DRUGS AND".
- (2) On page 1, strike lines 15-16.
- (3) On page 1, line 17, strike "(4)" and substitute "(3)".
- (4) On page 2, line 6, strike "DRUG OR".
- (5) On page 2, line 7, strike "drug or".
- (6) On page 2, line 9, strike "drug or".
- (7) On page 2, line 11, strike "drug or".
- (8) On page 2, strike lines 14-23 and substitute the following:

Sec. 88.003. EXCEPTIONS. (a) This chapter does not apply to a person who donates a device:

(1) knowing that use of the device would be harmful to the health or well-being of another person;

(2) with actual conscious indifference to the health or well-being of another person; or

(3) in violation of state or federal law.

Amendment No. 1 was adopted without objection.

CSHB 21, as amended, was passed to engrossment.

HB 2474 ON SECOND READING
(by Gallego)

HB 2474, A bill to be entitled An Act relating to appropriations for the preservation, enhancement, and promotion of state historical parks, structures, and sites.

HB 2474 was passed to engrossment.

CSHB 1477 ON SECOND READING
(by Bonnen and Seaman)

CSHB 1477, A bill to be entitled An Act relating to immunity from liability for the directors of the Texas Catastrophe Property Insurance Association.

CSHB 1477 was passed to engrossment.

HB 1453 ON SECOND READING
(by S. Turner, Dukes, McClendon, et al.)

HB 1453, A bill to be entitled An Act relating to the enforcement of certain laws prohibiting employment discrimination by the Commission on Human Rights.

Amendment No. 1 (Committee Amendment No. 1)

Representative S. Turner offered the following committee amendment to **HB 1453**:

Amend **HB 1453** as follows:

(1) On page 1, line 8, after "GENERAL" add "(a)"

(2) On page 1, line 11, after "authorization" delete the period and add "except as provided in subsections (b) and (c) of this section."

(3) On page 1, between lines 11 and 12, insert the following:

"(b) Upon notification by the commission authorizing the filing of a legal action under this chapter, the attorney general shall within 10 days review the commission's request and shall determine whether the commission's reasonable cause findings are well grounded in fact and warranted by law. If the attorney general determines the commission's reasonable cause findings are well grounded in fact and warranted by law, the attorney general shall file suit as provided in subsection (a) of this section."

"(c) In the event the attorney general determines that the commission's reasonable cause findings are not well grounded in fact or not warranted by law,

the attorney general shall so inform the executive director of the attorney general's reasons in writing within 10 days of receiving the commission's notification authorizing the filing of a legal action. In such cases, if the commission, by a majority vote of the members of the commission voting at a regularly scheduled meeting, votes to proceed with the legal action, the attorney general shall either file suit within 30 days of the commission's meeting prescribed by this subsection, or shall, within 10 days of the commission's meeting, authorize the commission to retain outside legal counsel. If the attorney general declines to file the legal action on behalf of the commission, the commission is authorized to file the legal action through outside legal counsel within 30 days of the commission meeting at which the commission voted to proceed with the legal action. To the extent permitted under Section 551.071, Government Code, during the meeting at which the commission takes a vote under this subsection, the commission may discuss the proposal in closed session before the vote."

Amendment No. 2

Representative S. Turner offered the following amendment to Amendment No. 1:

Please amend Committee Amendment No. 1 to **HB 1453**, as follows:

On page 4, line 11, after, "within" and before "days" strike "10" and replace with "20".

On page 4, line 21, after "within" and before "days" strike "10" and replace with "20".

Amendment No. 2 was adopted without objection.

Amendment No. 1, as amended, was adopted without objection.

HB 1453, as amended, was passed to engrossment. (Finnell, Madden, and Talton recorded voting no)

HB 3575 ON SECOND READING (by Brimer, Junell, and Counts)

HB 3575, A bill to be entitled An Act relating to the conversion or transfer of the Texas workers' compensation insurance facility.

HB 3575 was passed to engrossment.

CSHB 3075 ON SECOND READING (by Berlanga)

CSHB 3075, A bill to be entitled An Act relating to the possession of dangerous drugs by a home and community support services agency.

CSHB 3075 was passed to engrossment.

HB 2633 ON SECOND READING (by Brimer)

HB 2633, A bill to be entitled An Act relating to attorney compensation in certain matters; providing civil and criminal penalties.

Amendment No. 1

Representative Goodman offered the following amendment to **HB 2633**:

Amend **CSHB 2633** as follows:

(1) On page 1, line 19, strike "Class A" and substitute "Class B".

(2) On page 1, line 22, strike "harms" and substitute "results in damages incurred by".

(3) On page 2, strike lines 2-5 and substitute "(1) actual damages caused to the person bringing the suit by the publication of the account of the crime;".

Amendment No. 1 was adopted without objection.

CSHB 2633, as amended, was passed to engrossment.

POSTPONED BUSINESS

The following bill was laid before the house as postponed business:

**CSHB 2705 ON SECOND READING
(by Chisum)**

CSHB 2705, A bill to be entitled An Act relating to the program for the voluntary cleanup of contaminants.

CSHB 2705 was read second time earlier today, a point of order was called, and the bill was postponed until 6:15 p.m. today.

The following point of order was pending:

Representative Gutierrez raised a point of order against further consideration of **CSHB 2705** under Rule 8, Section 2 of the House Rules and Article III, Section 36 of the Texas Constitution on the grounds that the bill amended a section of law without publishing the section at length.

The point of order was withdrawn.

CSHB 2705 was passed to engrossment.

**MAJOR STATE CALENDAR
(consideration continued)****SB 1663 ON SECOND READING
(Keel - House Sponsor)**

SB 1663, A bill to be entitled An Act relating to the business of selling checks.

SB 1663 was considered in lieu of **HB 2436**.

SB 1663 was passed to third reading.

HB 2436 - LAID ON THE TABLE SUBJECT TO CALL

Representative Keel moved to lay **HB 2436** on the table subject to call.

The motion prevailed without objection.

**CSHB 3512 ON SECOND READING
(by Greenberg, Oliveira, Maxey, Naishtat, et al.)**

CSHB 3512, A bill to be entitled An Act relating to assistance or benefits provided to state employees who lose their jobs as a result of a reduction in force or the privatization of state services or who retire.

Amendment No. 1

Representative Greenberg offered the following amendment to **CSHB 3512**:

Amend **CSHB 3512** by striking all below the enacting clause and substituting the following:

SECTION 1. Subtitle B, Title 6, Government Code, is amended by adding Chapter 666 to read as follows:

**CHAPTER 666. EMPLOYMENT PREFERENCES FOR
FORMER STATE EMPLOYEES**

Sec. 666.001. DEFINITION. In this chapter, "state agency" means a department, commission, board, office, council, or other agency in the executive or judicial branch of state government that is created by the constitution or a statute of this state, including a university system or an institution of higher education as defined by Section 61.003, Education Code.

Sec. 666.002. STATE EMPLOYMENT PREFERENCE. A former state employee whose position was eliminated due to a reduction in workforce or the privatization of the service the employee formerly provided for the employing state agency is entitled to a preference in employment with or appointment to a state agency over other applicants for the same position who do not have a greater qualification for the position.

Sec. 666.003. OUTPLACEMENT SERVICES. (a) The Texas Workforce Commission shall establish a program to offer outplacement services to former employees of a state agency that:

(1) has reduced its workforce by not fewer than 25 employees; or

(2) has eliminated not fewer than 25 employees due to the privatization of certain services.

(b) The outplacement services offered under Subsection (a) must include:

(1) reasonable access to career centers;

(2) assistance in locating other available state employment;

(3) counseling regarding unemployment benefits; and

(4) instruction on resume drafting and other career-related services.

(c) The Texas Workforce Commission may contract with a private enterprise to provide the outplacement services under this section.

SECTION 2. Subchapter B, Chapter 814, Government Code, is amended by adding Section 814.1041 to read as follows:

Sec. 814.1041. RETIREMENT INCENTIVE FOR EMPLOYEE CLASS. (a) A member of the employee class may retire under this section if:

(1) the member has at least a minimum amount service credit required by Section 814.104; and

(2) the member:

(A) is at least 50 years of age; and

(B) is not more than three years younger than the minimum age required under Section 814.104 for eligibility for service retirement with that amount of service credit.

(b) This section does not apply to retirement under Section 814.107.

(c) A member eligible to retire under this section is one who:

(1) meets minimum age and service requirements under Section 814.104 except as provided by Subsection (a) of this section, as applicable;

(2) applies for service retirement;

(3) holds a position included in the employee class on the date the application is filed; and

(4) designates an effective date of retirement that is after August 31, 1997, but before September 1, 1999, and is the later of September 30, 1997, or the earliest date that the member's retirement may become effective.

(d) The retirement system shall report to the comptroller the name of each person who retires under this section, the effective date of the person's retirement, the entity by which the person was employed immediately before retirement, and the amount of compensation used in computing the person's annuity. The retirement system shall submit reports under this subsection at the times and in the manner the comptroller provides.

(e) The comptroller shall reduce the total amount of legislative appropriations to the entity by which the retiring member was employed immediately before retirement by the amount of the reported compensation multiplied by the number of months remaining in the fiscal biennium. This subsection applies only to retiring members whose positions were eliminated because of reduction in workforce of not fewer than 25 employees.

(f) The comptroller may not reduce appropriations under Subsection (e) if the retiring member's position was eliminated because of the privatization of certain services.

(g) This section applies only to a member of the employee class whose position was eliminated because of:

(1) a reduction in workforce of not fewer than 25 employees; or

(2) the elimination of not fewer than 25 employees, including the member of the employee class, due to the privatization of certain services.

(h) This section expires September 1, 1999.

SECTION 3. Section 9.12, Chapter 655, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Subsection (f) to read as follows:

(f) A contract under this section between the commission and a private firm that contracts to provide services formerly provided by state employees shall require the private firm to provide to employees of the private firm employed under the contract comparable compensation and benefits in the aggregate, including a retirement program, health insurance, vacation time, and sick leave.

SECTION 4. Subchapter A, Chapter 2254, Government Code, is amended by adding Section 2254.006 to read as follows:

Sec. 2254.006. CONTRACT FOR PROFESSIONAL SERVICES OF FORMER STATE EMPLOYEE. (a) A state agency may not enter into a contract for the provision of professional services with a former state employee who has retired under Section 814.1041 not more than 12 months before the date of the contract.

(b) This section expires September 1, 2000.

SECTION 5. Subchapter B, Chapter 2254, Government Code, is amended by adding Section 2254.0261 to read as follows:

Sec. 2254.0261. CONTRACT FOR CONSULTING SERVICES OF FORMER STATE EMPLOYEE. (a) A state agency may not contract with a former state employee for consulting services if the former state employee has

retired under Section 814.1041 not more than 12 months before the date of the contract.

(b) This section expires September 1, 2000.

SECTION 6. This Act takes effect September 1, 1997.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment No. 1 was adopted without objection.

HB 3512, as amended, was passed to engrossment. (Isett recorded voting no)

HB 1327 ON SECOND READING
(by Nixon)

HB 1327, A bill to be entitled An Act relating to the offense of barratry.

HB 1327 was passed to engrossment.

HB 1659 ON SECOND READING
(by Gallego)

HB 1659, A bill to be entitled An Act relating to personal financial disclosure and standards of conduct for district attorneys and criminal district attorneys.

HB 1659 was passed to engrossment.

CSHB 1759 ON SECOND READING
(by Hirschi and Gray)

CSHB 1759, A bill to be entitled An Act relating to the pesticide use and application program.

CSHB 1759 was passed to engrossment. (Staples recorded voting no)

CSHB 2909 ON SECOND READING
(by Carter, Chisum, Allen, Hupp, Wilson, et al.)

CSHB 2909, A bill to be entitled An Act relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.

Amendment No. 1

Representative Carter offered the following amendment to **CSHB 2909**:

Amend **CSHB 2909**, on page 6, line 27 to page 7, line 1, between "necessary" and the comma, by striking "based on the recommendation of the director's designee" and substituting "in the event that a question exists with respect to the accuracy of the application materials or the eligibility of the applicant".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Carter offered the following amendment to **CSHB 2909**:

Amend **CSHB 2909** as follows:

(1) In SECTION 11 of the bill, on page 12, line 23, strike "Subsection (d)" and substitute "Subsections (d) and (e)".

(2) In SECTION 11 of the bill, on page 13, between lines 16 and 17, insert the following:

(e) This section does not apply to a business that has a food and beverage certificate issued under the Alcoholic Beverage Code.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Greenberg offered the following amendment to **CSHB 2909**:

Amend **CSHB 2909**, in SECTION 20 of the bill, in proposed Section 30.06(b), Penal Code, (committee printing, page 20, lines 17 and 18), by striking "oral and written communication" and substituting "oral or written communication or by a sign posted on the property or at the entrance to the property, reasonably likely to come to the attention of those entering the property".

Representative Allen moved to table Amendment No. 3.

The motion to table prevailed.

Amendment No. 4

Representative Greenberg offered the following amendment to **CSHB 2909**:

Amend **CSHB 2909**, in SECTION 23 of the bill, in proposed Section 46.035(b), Penal Code, (committee printing, page 24), as follows:

(1) On line 18, strike "or" and substitute "[or]".

(2) On line 20, strike the period and substitute the following:

": or

(7) in a movie theater."

Amendment No. 4 was withdrawn.

CSHB 2909 - (consideration continued)

Amendment No. 5

Representative Kamel offered the following amendment to **CSHB 2909**:

Amend **CSHB 2909** as follows:

(1) On page 24, line 24, between "officers" and "and", insert "and do not apply to parole officers employed by the pardons and paroles division of the Texas Department of Criminal Justice who possess a certificate of firearm proficiency issued by the Commission on Law Enforcement Officer Standards and Education under

Section 415.038, Government Code,".

(2) On page 24, line 25, between "officer" and "from", insert "or a parole officer possessing a proficiency certificate".

(3) Insert the following appropriately numbered sections of the bill and renumber the sections of the bill accordingly:

SECTION _____. Subchapter B, Chapter 415, Government Code, is amended by adding Section 415.038 to read as follows:

Sec. 415.038. FIREARMS PROFICIENCY; PAROLE OFFICERS.

(a) The commission and the Texas Department of Criminal Justice shall adopt a memorandum of understanding that establishes their respective responsibilities in developing a basic training program in the use of firearms by parole officers. The memorandum of understanding must establish a program that provides instruction in:

(1) legal limitations on the use of firearms and on the powers and authority of parole officers;

(2) range firing and procedure, and firearms safety and maintenance; and

(3) other topics determined by the commission and the department to be necessary for the responsible use of firearms by parole officers.

(b) The commission and the department by rule shall adopt the memorandum of understanding establishing the basic training program.

(c) The commission shall administer the training program and shall issue a certificate of firearms proficiency to each parole officer the commission determines has successfully completed the program described by Subsection (a).

(d) The commission may establish reasonable and necessary fees for the administration of this section.

SECTION _____. The Commission on Law Enforcement Officer Standards and Education and the Texas Department of Criminal Justice shall adopt the memorandum of understanding required by Section 415.038, Government Code, as added by this Act, not later than January 1, 1998.

Representative Carter moved to table Amendment No. 5.

A record vote was requested.

The motion to table prevailed by (Record 404): 78 Yeas, 49 Nays, 2 Present, not voting.

Yeas — Alexander; Averitt; Berlanga; Carter; Chavez; Chisum; Corte; Counts; Danburg; Davila; Davis; Denny; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Giddings; Goodman; Gray; Greenberg; Gutierrez; Haggerty; Hamric; Hawley; Hernandez; Hightower; Hilbert; Hilderbran; Holzheuser; Howard; Jackson; Janek; Jones, D.; Lewis, G.; Lewis, R.; Longoria; Madden; Maxey; McCall; McReynolds; Moffat; Mowery; Naishtat; Nixon; Olivo; Pickett; Pitts; Place; Price; Puente; Ramsay; Rangel; Reyna, A.; Rhodes; Roman; Seaman; Smith; Solis; Solomons; Staples; Stiles; Telford; Thompson; Torres; Turner, B.; Uher; Van de Putte; Walker; Williamson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbrank.

Nays — Allen; Alvarado; Bailey; Bonnen; Bosse; Christian; Clark; Crabb;

Cuellar; Culberson; Driver; Farrar; Finnell; Flores; Galloway; Garcia; Goolsby; Hartnett; Hill; Hinojosa; Hirschi; Hodge; Horn; Hunter; Hupp; Isett; Jones, J.; Kamel; Keel; King; Krusee; Kubiak; Kuempel; Marchant; McClendon; Merritt; Oakley; Palmer; Patterson; Rabuck; Raymond; Reyna, E.; Shields; Siebert; Talton; Tillery; West; Williams; Wilson.

Present, not voting — Mr. Speaker(C); Burnam.

Absent, Excused — Grusendorf; Heflin; Oliveira; Serna; Smithee.

Absent, Excused, Committee Meeting — Brimer; Coleman; Craddick; Delisi; Gallego; Hochberg; Junell; Sadler; Swinford.

Absent — Cook; Glaze; Keffer; Luna; Moreno; Turner, S.

STATEMENTS OF VOTE

When Record No. 404 was taken, I was in the house but away from my desk. I would have voted no.

Keffer

I was shown voting no on Record No. 404. I intended to vote yes.

Kuempel

When Record No. 404 was taken, my vote failed to register. I would have voted yes.

S. Turner

Amendment No. 6

Representative Allen offered the following amendment to **CSHB 2909**:

Amend **CSHB 2909** on page 4, between lines 17 and 18, by inserting the following:

(3) Notwithstanding Subdivision (1), a person who has previously been diagnosed as suffering from a psychiatric disorder or condition described by Subdivision (1) or listed in Subdivision (2) is not because of that disorder or condition incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person provides the department with a certificate from a licensed physician stating that the psychiatric disorder or condition is in remission and is not reasonably likely to develop at a future time.

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Bosse offered the following amendment to **CSHB 2909**:

Amend **CSHB 2909** by adding the following sections and renumbering all sections accordingly:

SECTION 1. Amend Section 1(4) and add a new Section 1(5), Article 4413(29ee), Revised Statutes, to read as follows:

(4) Except as provided in subsection 1(5), "Convicted" means an adjudication of guilt or an order of deferred adjudication entered against a person by a court of competent jurisdiction whether or not:

(A) the imposition of the sentence is subsequently probated and the person is discharged from community supervision; or

(B) the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.

(5) A person shall not be considered convicted within the meaning of this Article if the person was pardoned or the imposition of sentence was subsequently probated, the offense charged did not involve violence, and the pardon or discharge of terms of any probation or deferred adjudication occurred more than 25 years before application for the license.

SECTION 2. Renumber existing Section 1(5), Article 4413(29ee), Revised Statutes and all subsequent subsections after Section 1 accordingly.

(Craddick now present)

Representative Allen moved to table Amendment No. 7.

The motion to table prevailed.

Amendment No. 8

Representative King offered the following amendment to **CSHB 2909**:

Amend **CSHB 2909** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION _____. Section 141.066, Human Resources Code, is repealed.

(Brimer now present)

Representative Allen moved to table Amendment No. 8.

The motion to table prevailed.

Amendment No. 9

Representative Naishtat offered the following amendment to **CSHB 2909**:

Amend **CSHB 2909** by adding appropriately numbered SECTIONS to the bill to read as follows and renumbering the existing SECTIONS of the bill accordingly:

SECTION _____. Section 16, Article 4413(29ee), Revised Statutes, is amended by adding Subsection (k) to read as follows:

(k) The department by rule shall develop an upgrade course of instruction to be administered by a qualified handgun instructor to persons who have applied for the issuance of a license under this article and who, not more than two years before the date of application, completed a handgun safety course administered by a handgun safety instructor under Section 18A of this article. A person's successful completion of an upgrade course described by this subsection constitutes satisfaction of the proficiency requirements imposed by this article as a condition of receiving a license under this article. The upgrade course must include two hours of classroom instruction regarding the laws that relate to carrying a concealed handgun under the authority of this article and a sufficient period of range instruction for the applicant to demonstrate the applicant's ability to safely and proficiently use the category of handgun for which the applicant seeks certification.

SECTION __. Article 4413(29ee), Revised Statutes, is amended by adding Section 18A to read as follows:

Sec. 18A. HANDGUN SAFETY INSTRUCTORS; SAFETY COURSE.

(a) The director by rule shall establish the qualifications necessary for a person to be certified by the department as a handgun safety instructor. In establishing the qualifications, the director shall require at a minimum that any person certified as a handgun safety instructor is qualified to instruct persons regarding handgun safety in the home, with an emphasis on:

- (1) the laws that relate to the use of deadly force in the home;
- (2) handgun use, proficiency, and safety;
- (3) nonviolent dispute resolution; and

(4) proper storage practices for handguns, including storage practices that eliminate the possibility of accidental injury to a child, theft of the handgun, or access of the handgun by a person at risk of committing suicide.

(b) The department shall provide training to any person who applies for certification as a handgun safety instructor and who pays a fee of \$100. The department shall certify a person as a handgun safety instructor if the person successfully completes the training offered by the department and pays the training fee. The department shall prorate the fee for a person who is a qualified handgun instructor under this article.

(c) A person may advertise that the person is a certified handgun safety instructor only if the person is certified by the department under this section.

(d) The department by rule shall develop the curriculum for a handgun safety course to be administered by a person certified as a handgun safety instructor. The handgun safety course must include:

- (1) not less than four hours of classroom instruction; and

(2) a sufficient period of range instruction for each participant to demonstrate the ability to safely and proficiently use a handgun.

Representative Carter moved to table Amendment No. 9.

The motion to table prevailed.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Stiles requested permission for the Committee on Calendars to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 7:30 p.m. today, speakers committee room.

CSHB 2909 - (consideration continued)

Amendment No. 10

Representative Danburg offered the following amendment to **CSHB 2909**:

Amend **CSHB 2909** by adding appropriately numbered SECTIONS to the bill, to read as follows, and renumbering the existing SECTIONS of the bill accordingly:

SECTION _____. Section 46.01, Penal Code, is amended by adding Subdivisions (17) and (18) to read as follows:

(17) "Firearms dealer" means a person licensed as a firearms dealer under 18 U.S.C. Section 921 et seq.

(18) "Gun show" means a place or an event, other than a permanent retail store, at which:

(A) three or more individuals assemble to display firearms or firearm components to the public; and

(B) a fee is charged for the privilege of displaying the firearms or firearm components or a fee is charged for admission to the area where the firearms or components are displayed.

SECTION _____. Chapter 46, Penal Code, is amended by adding Section 46.065 to read as follows:

Sec. 46.065. UNLAWFUL TRANSFER OF HANDGUN AT GUN SHOW.

(a) A person other than a firearms dealer commits an offense if the person, at a gun show, knowingly:

(1) sells or consigns a handgun to another person who is not a firearms dealer; or

(2) purchases or consigns a handgun from another person who is not a firearms dealer.

(b) An offense under this section is a felony of the third degree.

Representative Kubiak raised a point of order against further consideration of Amendment No. 10 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

The speaker sustained the point of order.

The ruling precluded further consideration of the amendment.

CSHB 2909, as amended, was passed to engrossment.

CSHB 2571 ON SECOND READING
(by Berlanga)

CSHB 2571, A bill to be entitled An Act relating to the substitution of certain drugs by a pharmacist.

CSHB 2571 was passed to engrossment.

GENERAL STATE CALENDAR
HOUSE BILLS
THIRD READING

The following bills were laid before the house and read third time:

HB 2128 ON THIRD READING
(by Janek, Keel, and Culberson)

HB 2128, A bill to be entitled An Act relating to the use of telephone caller identification services by telephone solicitors.

HB 2128 was passed.

HB 399 ON THIRD READING**(by Goodman, et al.)**

HB 399, A bill to be entitled An Act relating to the availability of governmental information about motor vehicle accidents.

HB 399 was passed.

**GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

SB 1506 ON THIRD READING**(Yarbrough - House Sponsor)**

SB 1506, A bill to be entitled An Act relating to special license plates for the Houston Livestock Show and Rodeo.

SB 1506 was passed.

SB 1150 ON THIRD READING**(Walker - House Sponsor)**

SB 1150, A bill to be entitled An Act relating to registration and reporting requirements pursuant to the collection, management, and recycling of used oil.

SB 1150 was passed. (Finnell recorded voting present, not voting)

SB 928 ON THIRD READING**(Bosse - House Sponsor)**

SB 928, A bill to be entitled An Act relating to employment as a firefighter in certain municipalities.

A record vote was requested.

SB 928 was passed by (Record 405): 133 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Pickett; Pitts; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Seaman; Shields; Siebert; Smith; Solis; Solomons; Staples; Stiles; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Grusendorf; Heflin; Oliveira; Serna; Smithee.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Hochberg; Junell; Sadler; Swinford.

Absent — Hirschi; Place; Zbranek.

(Hochberg now present)

SB 1922 ON THIRD READING
(Zbranek - House Sponsor)

SB 1922, A bill to be entitled An Act relating to the definition of coastal wetlands for purposes of the coastal management program administered by the Coastal Coordination Council.

A record vote was requested.

SB 1922 was passed by (Record 406): 134 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jones, D.; Jones, J.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Pickett; Pitts; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Seaman; Shields; Siebert; Smith; Solis; Solomons; Staples; Stiles; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Grusendorf; Heflin; Oliveira; Serna; Smithee.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell; Sadler; Swinford.

Absent — Hirschi; McCall; Place.

SB 555 ON THIRD READING
(Solomons - House Sponsor)

SB 555, A bill to be entitled An Act relating to certain business organizations; providing penalties.

SB 555 was passed.

SB 1388 ON THIRD READING
(Smithee - House Sponsor)

SB 1388, A bill to be entitled An Act relating to reserves maintained by title insurers.

A record vote was requested.

SB 1388 was passed by (Record 407): 136 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Seaman; Shields; Siebert; Smith; Solis; Solomons; Staples; Stiles; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Grusendorf; Heflin; Oliveira; Serna; Smithee.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell; Sadler; Swinford.

Absent — Maxey.

SB 1202 ON THIRD READING
(Raymond - House Sponsor)

SB 1202, A bill to be entitled An Act relating to directing the Texas Veterans Commission to determine the need for establishing state cemeteries for veterans.

SB 1202 was passed.

SB 1639 ON THIRD READING
(Walker - House Sponsor)

SB 1639, A bill to be entitled An Act relating to a lien for the processing or harvesting of cotton.

SB 1639 was passed.

SB 1227 ON THIRD READING
(Wohlgemuth - House Sponsor)

SB 1227, A bill to be entitled An Act relating to the establishment of a comprehensive plan by a municipality.

SB 1227 was passed.

SB 925 ON THIRD READING
(Hawley - House Sponsor)

SB 925, A bill to be entitled An Act relating to the imposition, collection, and administration of LPG delivery fees.

SB 925 was passed.

GENERAL STATE CALENDAR
HOUSE BILLS
SECOND READING

The following bills were laid before the house and read second time:

CSHB 159 ON SECOND READING
(by Driver, Crabb, and Oliveira)

CSHB 159, A bill to be entitled An Act relating to assignments by certain recipients of state assistance of lottery prizes to the state and collection of those assignments.

CSHB 159 was passed to engrossment.

HB 1467 ON SECOND READING
(by Puente)

HB 1467, A bill to be entitled An Act relating to extending the period of community supervision for certain persons convicted of a misdemeanor.

HB 1467 was passed to engrossment.

HR 923 - ADOPTED
(by Goolsby)

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 923**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 923, Honoring National Merit Scholarship Winners Jeff Delezen, Angela Liu, and Mark Muir.

HR 923 was adopted without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

State Affairs, on adjournment today, E1.014, Capitol Extension.

Rules and Resolutions, on adjournment today, Desk 133, to consider the calendar.

ADJOURNMENT

Representative Davis moved that the house adjourn until 10 a.m. tomorrow.

The motion prevailed without objection.

The house accordingly, at 7:39 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HCR 249 (by Talton), Honoring the members of the 533rd Anti-aircraft Battalion on the occasion of their 18th reunion.

To Rules & Resolutions.

HCR 251 (by Hochberg), Granting Jeannie DiMauro permission to sue the state and The University of Texas Health Science Center at Houston.

To Civil Practices.

HR 853 (by Serna, Moreno, Haggerty, Pickett, and Chavez), Recognizing the Tigua Indians for their contributions to Texas.

To Rules & Resolutions.

HR 866 (by Sadler), In memory of Margaret Houston Tillery.

To Rules & Resolutions.

HR 869 (by Staples), In memory of Thomas Boroughs Moseley.

To Rules & Resolutions.

HR 870 (by Howard), Congratulating Matthew and Melissa Morris on the occasion of their first wedding anniversary.

To Rules & Resolutions.

HR 873 (by McClendon), In memory of Jamon Williams.

To Rules & Resolutions.

HR 875 (by Williams), Congratulating Betty Stender Brouthers on the occasion of her 70th birthday.

To Rules & Resolutions.

HR 876 (by Kubiak), In memory of Jean Kubiak Cundieff.

To Rules & Resolutions.

HR 879 (by Gutierrez), Congratulating Willie Charles Briscoe on his graduation from Texas Southern University's Thurgood Marshall School of Law.

To Rules & Resolutions.

HR 880 (by Keffer), Commemorating the grand opening of the Ruth Terry Denney Library-Research Center in Ranger.

To Rules & Resolutions.

HR 882 (by Uher), In memory of Jolene Snokhous.

To Rules & Resolutions.

HR 883 (by Uher), Recognizing the Texas Czech Heritage and Cultural Center.

To Rules & Resolutions.

HR 884 (by Kubiak), Commemorating the 50th anniversary of radio station KWHI.

To Rules & Resolutions.

HR 887 (by Alexander), In memory of officers Kobler C. Winn, Larry Hobson, Bennie R. Everett, and Charlie Fields, Sr.

To Rules & Resolutions.

HR 891 (by Williams), Honoring Rusty Pierce for his athletic achievements.

To Rules & Resolutions.

HR 892 (by Raymond), Honoring Lucien and Maxine Flournoy for their service to the citizens of Alice.

To Rules & Resolutions.

HR 894 (by Howard), Declaring May 30, 1997, Tom DeLay Day in Texas.

To Rules & Resolutions.

HR 895 (by Van de Putte, McClendon, Puente, Hernandez, Alvarado, et al.), In memory of San Antonio Firefighter Jesse F. Bricker.

To Rules & Resolutions.

SB 25 to Pensions & Investments.

SB 33 to Insurance.

SB 775 to Human Services.

SB 918 to Appropriations.

SB 984 to State, Federal & International Relations.

SB 1221 to Public Education.

SB 1389 to Land & Resource Management.

SB 1545 to Energy Resources.

SB 1561 to Judicial Affairs.

SB 1653 to Public Education.

SB 1894 to Insurance.

SB 1918 to Public Education.

SB 1919 to Public Education.

SB 1938 to Juvenile Justice & Family Issues.

SB 1948 to Insurance.

SCR 77 to Natural Resources.

SCR 88 to Rules & Resolutions.

SCR 89 to Rules & Resolutions.

Message No. 3

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Tuesday, May 13, 1997 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 1180 Holzheuser SPONSOR: Armbrister
Relating to a limitation of liability of a licensed installer or servicer of a liquefied petroleum gas system in a motor vehicle.

HB 1206 Kuempel SPONSOR: Fraser
Relating to the composition of the Municipal Solid Waste Management and Resource Recovery Advisory Council.
(AMENDED)

HB 1410 Hill SPONSOR: Ellis
Relating to authorizing economic development corporations to provide affordable housing.
(AMENDED)

HB 1524 Siebert SPONSOR: Armbrister
Relating to the weight of vehicles transporting recyclable materials.
(AMENDED)

HB 1651 Siebert SPONSOR: Wentworth
Relating to the resale of property sold to a taxing unit pursuant to foreclosure of an ad valorem tax lien.

HB 2964 Sadler SPONSOR: Nixon
Relating to the administration of county roads in Panola County.
(AMENDED)

Respectfully,

Betty King
Secretary of the Senate

Message No. 4**MESSAGE FROM THE SENATE
SENATE CHAMBER**

Austin, Texas

Tuesday, May 13, 1997 - 4

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:**SB 1155** Harris

Relating to certain business practices in and licenses for the writing of title insurance.

SB 1396 Lindsay

Relating to an exception to the open meetings law for certain deliberations of the board of a hospital district.

SB 1491 Ellis

Relating to the creation of the self-sufficiency fund to develop job training for certain recipients of the financial assistance program for persons with dependent children.

SB 1565 Cain

Relating to the qualifications and compensation of persons performing examinations of insurance organizations.

SB 1774 Lucio

Relating to the creation of a long-term care pharmacy and a long-term care satellite pharmacy license.

Respectfully,

Betty King
Secretary of the Senate

Message No. 5**MESSAGE FROM THE SENATE
SENATE CHAMBER**

Austin, Texas

Tuesday, May 13, 1997 - 5

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 1328 Fraser

Relating to the eligibility of certain higher education employees to participate in group programs under the Texas Employees Uniform Group Insurance Benefits Act.

SB 1446 Harris

Relating to the terms under which insurers may engage in the business of reinsurance in this state.

Respectfully,

Betty King

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 12

Corrections - **SB 1544**

Elections - **HB 464, HB 1645, HB 3332, HB 3385, SB 96**

Environmental Regulation - **SB 1520, SB 1929**

Financial Institutions - **HB 2338, SB 394, SB 1098, SB 1290**

Higher Education - **HB 805, SB 572, SB 1306**

Human Services - **SB 359**

Insurance - **SB 682, SB 1498**

Judicial Affairs - **SB 1063, SB 1176**

Natural Resources - **HB 328, HB 3609**

Public Education - **SB 519**

Public Health - **SB 85, SB 208, SB 447, SB 770, SB 910, SB 975, SB 1057, SB 1163, SB 1164, SB 1165, SB 1245, SB 1246, SB 1247, SB 1284, SB 1313, SB 1517, SB 1574, SB 1765**

Public Safety - **HB 2855, SB 1368**

State, Federal & International Relations - **SB 1622, SCR 57**

Transportation - **HB 2198, HB 3249, SB 370, SB 566, SB 605, SB 773, SB 1276, SB 1351, SB 1391, SB 1631, SB 1661**

Urban Affairs - **HB 817, SB 1852**

ENROLLED

May 12 - **HB 324, HB 627, HB 1773, HB 1782, HB 1989, HB 2311, HB 3134, HB 3356, HB 3459, HCR 109**

SENT TO THE GOVERNOR

May 12 - **HB 16, HB 35, HB 101, HB 197, HB 320, HB 324, HB 327, HB 384, HB 449, HB 485, HB 501, HB 581, HB 627, HB 641, HB 646, HB 699, HB 736, HB 791, HB 922, HB 1025, HB 1050, HB 1312, HB 1532, HB 1545, HB 1773, HB 1782, HB 1901, HB 1902, HB 1989, HB 1999, HB 2015, HB 2193, HB 2311, HB 2373, HB 3134, HB 3356, HB 3459, HCR 109, HCR 207, HCR 233**

SIGNED BY THE GOVERNOR

May 12 - **HB 786, HB 1040, HB 1266, HB 1414, HB 1720**